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UNIVERSITY OF ALBERTA

INDIAN EDUCATION: RESISTANCE TO INTERNAL COLONIALISM

BY

ROBERT J. DEVROME

A THESIS

SUBMITTED TO THE FACULTY OF GRADUATE STUDIES AND
RESEARCH IN PARTIAL FULFILLMENT OF THE REQUIREMENTS FOR
THE DEGREE OF DOCTOR OF PHILOSOPHY

DEPARTMENT OF EDUCATIONAL FOUNDATIONS

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The undersigned certify that they have read, and recommend to the Faculty of Graduate Studies and Research for acceptance, a thesis entitled Indian Education: Resistance to Internal Colonialism submitted by Robert J. Devrome in partial fulfillment of the requirements for the degree of Doctor of Philosophy in Intercultural Education.

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DEDICATION

To the Joseph Bighead Cree; a people whose vision is strong.

ABSTRACT

This thesis is about the asymmetrical relations between Canada and the Indian Nations. It reviews colonial and internal colonialism theory to describe the social, legal, political and economic relations between superordinate and subordinate cultures.

The history of the development of Canadian Indian policy is described to explain the powers of the Canadian Government over Indian people and the education of Indian children. Internal colonialism theory is used as a framework for the analysis of the relationship. It is also used to show how the legal and administrative powers of Canada affect the individual and collective social, civil and political rights of Indian people.

The historical relations between the Joseph Bighead Cree and Canada are described to show the realities of the asymmetrical relationship, and to provide a historical context to the resistance of the Band to the structures that control them. Resistance theory is used in this thesis to explain the social and political measures taken by the Joseph Bighead Band Government to change the relationship with Canada. The self-defined aboriginal rights and powers of the Band are described. The ideological support for the resistance, by the parents, students and Elders of the Band, is also described to show the level of commitment to change that exists among the Joseph Bighead Cree.

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CHAPTER 1
INTRODUCTION

Colonial theory and internal colonial theory both emphasize the political and economic asymmetry that exists when one culture systematically dominates another. The difference between the two models is that in the colonial model, the dominant culture's center of power is geographically removed from the subordinate culture, while in the internal colony model, the asymmetrical relationship between the dominant and subordinate cultures exist within the boundaries of a nation-state. In the internal colonial relationship, the dominant culture's social, legal, economic and political institutions and practices dominate the subordinate culture on a day to day basis. The consequences of this relationship for the subordinate culture, are a loss of the power to govern themselves as they had prior to contact, and the loss of their ability to be self-sustaining in terms of food, shelter and the reproduction of their culture.

A key feature of the internal colony model is the dominant culture's forced application of all of its national laws on the subordinate culture, and the inability, or lack of social, political and economic power, of the subordinate culture to effect any meaningful change in the relationship. Another feature of the relationship is that the subordinate culture becomes dependent on the political power of the dominant culture for their existence, and for the services they receive. Their rights as a distinct culture are no longer determined internally within their culture, but externally, by the dominant power.

Canadian Indians are an internal colony within the nation-state of Canada. The Federal Government formalized its political ideology about Indians, with the creation of the Canadian Indian Act over 100 years ago. The Indian Act legalized cultural genocide by legislating who an Indian was, where land would be set aside for their use, and what social, civil and legal rights they had. The result of this oppression is that Canadian Indians are an underdeveloped part of Canada that experiences low incomes, high unemployment rates, high dependency rates, lower life expectancy, and lower educational achievement levels that non-Indians.

Canadian Indians, more than any other minority in Canada, experience a poverty and underdevelopment that is unequalled. The 1989 Employment Equity Act Report to Parliament stated that "Aboriginal peoples were under- represented in the workforce", that their average salaries were lower, and their jobs were in the semi-skilled and manual labour occupational groups (Vezina, 1989: x). Armstrong, Kennedy and Oberle agree with this statement and point out that:

> ... the gap in median income between Indians and non-Indians does not decrease as the level of education increases. Indians consistently earn about two-thirds that of non-Indians, regardless of the level of education (1990: vii).

Census data shows that the per capita income for Canadian Indians is about 60% of that of all Canadians. Also, a majority of the Indian labour force is unemployed or is employed in seasonal work only. The data indicate that among those employed in 1981, only 38% of the Indians 15 years of age and older were included, compared with 60.2% for the general Canadian population (Brecher, et.al., 1985: 29, 35).

The Employment Equity Act Report to Parliament also states that "about one-third of the aboriginal population were under the age of 14 compared to one-fifth of the total population" (Vezina, 1989: 40), and although the number of aboriginal people in the labour force increased from 122,465 to 210,605, between 1981 and 1986, the unemployment rate of aboriginal people was twice that of the reference population - 22% vs. 11% (ibid.). The most significant datum was in the 15 to 24 age group, where 31% of aboriginal people were unemployed (ibid.).

Indian and Northern Affairs statistics for 1989, indicate that there are 70,665 Registered Indians in Saskatchewan and that 53% (37,355) live on the Saskatchewan Indian Reserves (INAC, 1990). According to Jarvis, 70% of the Saskatchewan Indian population is 24 years old or younger, compared to 43% for the reference(provincial) population. Also, the fertility rate of Registered Indians, compared to the Reference population is 2:1 (1987:16, 29).

The educational attainment of Registered Indians in Saskatchewan is far below the rates of the reference (provincial) population. Jarvis (1987:81), using Saskatchewan data from the 1981 Census, says that 44% of the reference population has completed high school or more, while only 20% of the Registered Indian population has. This 'high school or more' figure of 20% is misleading because it groups together both the on and off Reserve data. The off Reserve population rate is 32%, while the on Reserve figure is only 14%.

Another datum is the number of Registered Indians in Saskatchewan, aged 15 or older, who have less than a Grade Nine education, and who may, says Jarvis, be defined as functionally illiterate. 49% have less than a Grade Nine education compared to 22% of the reference population (ibid.).

Saskatchewan Indians have the worst school retention rate in Canada, at all levels. At the Grades K-6 level, 22.3% of the students left school. At the Grades 7-9 level 33.6% left school and 52.2% left at the Grade 10-13 level (Hull, 1987: 41-42).

For those 15 years of age and older, the university attainement levels are equally disturbing. Only 0.9% of Saskatchewan Registered Indians have a University Degree, Diploma or Certificate, compared to 6.3% of the reference population (Jarvis, 1987: 87).

The non-University rates of enrolment in technical and vocational programs indicate that Saskatchewan Indians do not fare any better in relation to the reference population. The proportional representation is about two to one (Hull, 1987: 68).

Additional data shows that Canadian Indians also suffer from a higher incidence of dangerous diseases such as diabetes, tuberculosis and pneumonia (Lithwick, et.al., 1986: 77). This is reflected in a life expectancy shorter than that of Canada as a whole by about ten years(ibid: 38). The census data also show that infant mortality is higher than the national population, and that twice as many Indian babies die than do babies in the general population of Canada. In 1981, the average age at death for Registered Indian males was 45.2 years and 47.7 for females. For the Canadian population it was 65.4 for males and 71.1 for females (ibid: 34).

It is easy to conclude that Canadian Indians live in the most undesirable social and economic conditions in Canada. The most obvious characteristic of their condition, however, is that these conditions have existed for over one hundred years despite Canada's Treaty, Constitutional and Legislative obligations to Indian people, and the vast amounts of money that have been spent in meeting these obligations.

National policies based on the existing liberal democratic ideology have largely resulted in failure. Mel Watkins, in his book Dene Nation - the colony within, summed up the Canadian situation:

> Many native people in this country are in their present impoverished position because of what has been done to them in the past (1977: 99).

What was done to Canadian Indians in the 19th. century, was done by a political decision that made them wards of the Federal Government, without equal rights. The Federal control of Indians was placed in the hands of a bureaucracy that still has the legal and administrative power to determine the rights of Canadian Indians.

Rodolfo Stavenhagen (1971) argues that in order to understand the causes of an asymmetrical relationship, the relationship must be viewed as a "total system":

> ..., the causes of oppression, or exploitation, or deprivation(relative or absolute), or simply backwardness and traditionalism, are to be found in the functioning of total systems, in the nature of the relationships binding the oppressed and their oppressors ... into a total system ... And this requires giving attention to the other pole of the relationship, ... that of the dominant groups (1971: 337).

This thesis will show what the fundamental causes of this situation have been, and how one Indian Band has attempted to ameliorate the problem through a structural change in their relationship with the Federal Government of Canada.

Statement of Problem

The Joseph Bighead Band of Cree Indians has been trying for many years to enter into a bilateral relationship with Canada that recognizes both its inherent right to govern itself, and Treaty #6 that the Band entered into with Canada in 1913. Canada, through the Departments of Indian Affairs, Justice and other agencies, has consistently refused any recognition of the Joseph Bighead Band's wishes. Canada's reliance on existing legislation has proven to be a barrier to any meaningful discussions between the Band and the Department of Indian Affairs.

The two basic assumptions of this thesis are: 1), that the "internal colony" model of Michael Hechter (1975) is applicable to the Joseph Bighead Band - Canada relationship and provides the framework required to explain the "oppositional behavior" or "resistance" (Giroux, 1983) measures taken by the Band; and, 2), that the "political analysis" advocated by Giroux (1983: 107) and Ortner (1984: 149) provides the insight required to create a specific model of resistance that explains the dialectic "between (the) lived experiences (of the Band members) and (the) structures of domination and constraint" (Giroux, 1983: 107, brackets added). Whether the resistance is "real" or "token" is determined by identifying the Joseph Bighead Band's "intentions" and what they perceive to be the expected outcomes, or "consequences", of their opposition to the structures that control them (Scott, 1985).

This thesis addresses the problem of how the Joseph Bighead Band approaches its educational objectives within a colonial relationship. The focus of attention is on the Band and how its members address the individual and collective questions associated with the educational system to which they are exposed.

Two questions are answered in the thesis: 1), what are some of the Indian social and legal goals for education, as they are perceived by individuals, Band, Tribal and Provincial Indian organizations?; and, 2), what are the social and legal goals of Indian education as perceived by the Federal and Provincial Governments, including those of the policy makers and administrators in the present system responsible for the delivery of education services to on-Reserve students?

Methodology

The research for this thesis included the collection of data from a number of sources. The 14 research reports by Indian and Northern Affairs Canada (INAC) provided information about the national and provincial conditions of Registered Indians. Of particular value were the publications specific to the educational, economic and housing conditions, and the report on Saskatchewan Registered Indians. Other INAC information in the form of policy documents, administrative and financial regulations, and contractual relations were secured either from the INAC Treaties and Historical Research Branch, in Ottawa, INAC Regional and District Offices, the Joseph Bighead Band or the Federation of Saskatchewan Indian Nations (FSIN).

The information provided by the FSIN Treaty Rights and Research Branch and the FSIN Saskatchewan Indian Education Council, was particularly useful in understanding the importance of the Indian insistence that their inherent rights to govern themselves be recognized by Canada. The library of the Saskatchewan Indian Cultural Centre was an important document source in this area. Also, historical data were collected from the Public Archives of Canada. The RG 10 - Black Series provided historical information that does not appear to be available anywhere else.

The data collected on the Band and Indian organizations provided four different kinds of answers to the first question - "What are the Indian goals for education ...?" 1) it provides data specific to educational achievement and the social objectives of education from the Indian perspective. 2) it identifies the political and legal position and objectives of Indian Governments, specific to control over Indian education. 3) the analysis of the Band's Education Act describes the educational powers, duties and objectives, as they are perceived by the Joseph Bighead Band Government, Board of Education, Director of Education and the Principal of the Chief Napayo Memorial School. And, 4) the description of the Bands efforts to implement change underlines the asymmetrical relations between the Joseph Bighead Band and the Federal and Provincial Governments.

Data to answer the second question - "... the goals of Indian education as perceived by the Federal and Provincial Governments in the social and legal domains, including those ...?", came from the policies of the Federal and Provincial Governments and shows how the political jurisdictions overlap and maintain the dependent status of Canadian Indians. The primary and subordinate legislative and regulatory powers of the Department of Indian Affairs are described to explain the policy framework that dictates the terms and conditions of all of the financial and administrative arrangements between the Joseph Bighead Band and the Department of Indian Affairs.

The Province of Saskatchewan's social and legal objectives are described to show how the Province supports a policy of containment in the area of Indian education. These data also illustrate how the Provincial Department of Education's powers extend to the Joseph Bighead Band controlled school.

Field research, on the Joseph Bighead Reserve, included formal interviews, as well as informal discussions with Elders, parents, students, Band Government and the Band Board of Education. Also, I have participated in formal meetings of the Band Government and Board of Education, both as a contributor and an observer.

Format

Chapter two outlines the theoretical orientation of the thesis, with emphasis on the Canadian context and the applicability of the internal colony model to the Canadian Indian asymmetrical relationship with the Federal Government. Chapter three describes the structures and degree of Federal and Provincial involvement in Indian education within the context of the Constitutional jurisdiction in Canada. It also includes a description of the Indian education laws developed by Saskatchewan Indians in an attempt to establish Indian sovereignty over Indian education. Chapter four is an educational history of the Joseph Bighead Band, and its resistance to the structures that control them. Chapter five summarizes the findings of this research and concludes with comments on the future of Indian Control of Indian Education.

CHAPTER 2.
THEORETICAL FRAMEWORK

Sherry Ortner, in her discussion of practice anthropology, explains that the most important point of analysis in an asymmetrical relationship, or system in which one culture dominates another, is in the area of social and political relations. She says:

> ... that the most important forms of action or interaction for analytical purposes are those which take place in asymmetrical or dominated relations, that it is these forms of action or interaction that best explain the shape of any given system at any given time (and that) the approach tends to highlight social asymmetry as the most important dimension of both action and structure (1984: 147, brackets added).

and that

> At the core of the system, both forming and deforming it, are the specific realities of asymmetry, inequality, and domination in a given time and place (ibid.: 149).

This analysis focuses on the relations between the two cultures and it stresses the importance of the social, legal and ideological factors extant within the asymmetrical relationship of domination and subordination.

Two primary benefits are gained by using this analytical focus and method. One, it leads to a historical explanation that emphasizes the social relations between two cultures in an asymmetrical colonial relationship. The economic motives for colonization and the colonizing powers operational methods, are not ignored in this type of analysis. Rather, the relations between the two cultures are analyzed with equal emphasis being placed on the social, political and ideological phenomena that result from the economic motives and methods of colonialism. Narrow economic determinist arguments are avoided by using Ortner's analysis.

Anthony D. Fisher argues that the factors which contribute to the subordination of Indian people should be placed in historical perspective, in order to understand the contemporary asymmetrical relations between Indians and non-Indians in Canada:

> If one examines the processes historically it appears that the so called pathology or disorganization of native communities is not a trait of theirs but is part of the dialectic between Indian individuals and contact persons within the administrative and legal limits of the settlement in which they live (1976: 463).

Using this historical perspective, an analysis and description of the social, economic, administrative and legal relations between the Joseph Bighead Cree and Canada would "portray the separation of legitimate authority from relations in the settlement and the separation of community authority from real power" (ibid.). An understanding of the "separation" of power and authority is essential to understanding the oppositional behavior of the Joseph Bighead Band.

The second benefit is that the contemporary realities of the asymmetrical relationship can be identified and used to explain the reasons for the Joseph Bighead Band's oppositional behavior, or resistance, to the present relationship they now have with the dominant Canadian society.

Henry Giroux, in Theory and Resistance In Education, argues that the resistance movements of subordinate groups, such as Indians, have their roots in their memories and lived experiences (1983: 8).

Giroux says:

> ... the concept of resistance represents a problematic governed by assumptions that shift the analysis of oppositional behavior from the theoretical terrains of functionalism and mainstream educational psychology to those of political analysis. Resistance in this case redefines the causes and meaning of oppositional behavior by arguing that it has little to do with the logic of deviance, individual pathology, learned helplessness (and, of course genetic explanations), and a great deal to do, though not exhaustively, with the logic of moral and political indignation (1983:107).

James C. Scott, in Weapons of the Weak, takes a similar point of view: that resistance cannot be explained or "defined with reference to its consequences alone" (1985: 295). Scott argues that an understanding of the "intentions" of resistance are equally important, and must be combined with an analysis of the anticipated consequences of resistance in order to fully comprehend the social, political and ideological resistance of subordinate groups to domination (ibid.: 289 - 303). Scott goes on to demonstrate that by taking both of these perspectives into account - "intentions" and "consequences" - that a clear distinction can be made between what is "real" resistance and what is "token" resistance (ibid.: 292).

The usefulness of this theoretical and analytical approach is that it explains the forms of conflict between the social and legal goals of the Joseph Bighead Band and Canada. It also explains how Canada maintains its hegemony over Indian people. Raymond Williams stresses that this total control of one culture by another, or hegemony,

> is in the strongest sense a "culture", but a culture which has also to be seen as the lived dominance and subordination of particular classes (1977: 108-109, 110, in Ortner, 1984: 149).

The following description of "colonial" and "internal colony" models explains the intentions, processes and consequences of a social relationship in which one culture dominates another.

Colonialism

Colonialism is a common term to describe an asymmetrical relationship in which one culture dominates another. Although the characteristics of colonialism vary from one situation to another, the literature shows that the model is applicable to a number of groups, including Canadian Indians generally and the Joseph Bighead Band specifically.

Considerable evidence indicates that colonialism is economically motivated, and that it is promoted politically by an asymmetrical power relationship between two groups - the colonizers and the colonized. The dominance of the colonizer over the colonized is often reflected in military and technological superiority (Parry, 1961: 136 - 151). This disparity of power is often displayed in the adaptation of the existing institutions of the colonized to meet the needs of the colonizer. New forms of social and economic organization emerge. These institutional changes force the adaptation of the existing structures of the colonized group toward the production of an economic surplus for the colonizing nation.

A number of studies show that in the initial period of contact, the economic interests of the colonizers center around the use of the indigenous aboriginal populations to exploit the existing natural resources of the region. Later the economic activity may shift to other profitable activities such as agriculture when the profits from mining or the fur bearing population begin to decline. Stavenhagen's analysis of various Latin American countries support this. He shows that Latin America was "transformed into a complete colonial system" for the benefit of Spain and Portugal (1970: 201). Political and economic institutions were either adapted or directly transferred to the colonies to meet the demands of the mother country. The principle economic activity of the colony became the production of an economic surplus for export. The Indian populations were removed from their lands and were forced into slave labor for the mines and haciendas. Stavenhagen states that:

> ... the Spaniards developed a number of institutions ... whereby the surplus product and labor of the peasant(Indian) communities were transferred to the conquerors without basically affecting the productive organization of the local agricultural communities (ibid.: 219 - 220, brackets added).

When the production of gold and other precious metals declined in Latin America, the economic activities shifted to agriculture.

As the economy realigned to meet the needs of the colonizers, the major effect of the colonial relationship was the colony's loss of self-sufficiency. During Spain's hegemony, the Indians were brought into Spain's economy and politics through the "repartimiento" and "encomienda" systems. The "encomienda" system was an agricultural practice of granting to a Spanish nobleman complete control over an area of land and Indian labourers. The "encomendero"(nobleman) was awarded the right to their labour, in exchange for providing religious instruction to the Indians. According to L. R. Bailey, the "encomienda system was nothing more than the alloting of Indians to settlers", and was a form of slavery (1966: 9). The "repartimento" system of labor recruitment was based on coercion. Indian communities were forced to provide a specified number of labourers per week, for the mines, agriculture, public works, or other construction activities (ibid.). This system, which was established in 1570 and lasted to about 1820, was similar to the colonial labour systems used in Africa (Stavenhagen, 1970: 220; also, see C. Furtado, 1976: 16 - 19, and R. Wolff, 1974).

The changes that had the greatest impact on the Indian societies of Latin America were the appropriation of Indian lands and the introduction of the "latifundia." This land holding system became the basic economic institution in Latin America, providing the social framework for the continued extraction of an economic surplus from the Indians. Celso Furtado states that:

> With the breakdown of tribal structures, the residual native population had been widely scattered and lost, with their religion and language, all cultural identity. ... (and) where, under the Portugese or Spanish yoke, the populations had moved from the tribal structure to the direct control of the landowner, the end result was inevitably the same: extraction of a labour surplus in the form of agriculture production or personal service (1976: 30, brackets added).

Generally, a colonial relationship is characterized by the relative powerlessness of the indigenous population in comparison to the colonizers. The political structures and institutions of the colonizers regulate the relations between the two groups. They protect and enforce the interests of the dominant group by keeping the subordinate population subjugated and directing their activities toward satisfying the needs of the colonizers. A good example of this phenomenon is the imposition of a system of private land ownership on North American and Latin American Indians and the suppression of traditional communal residency and land use practices. When the Indian communities had been dispossessed of their land they became a culture that was dependent on the colonizers.

Following the subjugation of the Indian societies, dramatic changes occurred in their social organization. New classes emerged as the changes introduced by the foreigners created internal divisions and the breakdown of traditional social structures. Power and prestige were transferred along non - traditional lines and the Indian systems of rank, prestige and power were undermined. In these instances, the dominant society used individuals from the subordinate culture to regulate political and economic relations with the colonized population. As the Indian societies became increasingly controlled by these individuals, who cooperated with the colonizers, they (the individuals) began to take over the internal decision making processes of the existing Indian institutions and used these mechanisms to implement and enforce the demands of the colonizers. This process resulted in the centralization of power and the creation of a dependent comprador elite who learned to manipulate the sytem for their own benefit.

G. A. Beltran says that the forced change in the social, economic and political structures of the subordinate cultures resulted in a situation where:

> The Indian elite were forced to collaborate and the mechanisms that were used to force recruitment of manual labor and the consequent migratory movements were developed in response to the needs of the metropolitan economy (1979: 15).

Pablo Casanova found that this pattern of internal domination by socio-economic elites continued to exist following Mexico's national independence movement. According to Casanova, even though the external structures of colonialism changed, liberation from Spain failed to produce accompanying changes in Mexico's internal political structures. Power was simply transferred from the Spanish to an Indian ruling elite. Casanova says that:

> With the disappearance of direct domination of foreigners over natives, the notion of domination and exploitation of natives by natives emerges ... (with) the same characteristics it had before independence (1965: 27, brackets added).

With the achievement of national independence, the internal political structures of the former colonial relationship continued to operate. The Indian elite's economic interests were based on maintaining a cheap and abundant work force and, therefore, they continued Spains policies in Latin America. Stavenhagen describes this situation:

> Indians of the traditional communities once again found themselves in the role of a colonized people: they lost their lands, were forced to work for "strangers", were integrated against their will into a new monetary economy, and fell under new forms of political domination (ibid.: 204).

Concomitant with the internal application of these political and economic structures, was the erosion of the traditional Indian practices. The result was poverty and underdevelopment. Casanova describes this monopolistic dominance as having two features: "One, it deprive(d) the Indians of their lands and two, it convert(ed) them into dependent workers" (1965: 34, brackets added).

In this relationship the economy polarized into two sectors, one of dominance and economic growth and the other of subordinate status and economic stagnation. Economic and political dualism developed and was reflected in a lack of integration between the two sectors within the colony. As political power and economic wealth become concentrated in the Indian elite, the political power of the internal comprador was used to maintain and promote the system. The extreme inequalities between the colony and the metropolis were, therefore, replicated between the center and the periphery within the colony (Beltran, 1979: 15 - 18).

Stavenhagen maintains that this colonial relationship created two different situations. First, it created a rigid stratification of the Indian and Spanish societies along racial and cultural lines, and secondly, it stimulated a dual response among the Indian societies. One group of Indians evolved who physically and culturally withdrew from their traditional lands and homes. They chose to discard their culture, with its language, customs, religion and social organization, in favour of being assimilated into the dominant group. Other Indians, however, opposed the abandonment of their culture and intensely resisted change in favour of retaining their traditional Indian culture (ibid.: 208 - 210; also, see Wax, 1971: 5 - 9, and Beltran, 1979: 79 - 80, note 14).

Internal Colonies

The colonial theoretical model has been applied to national internal minorities, including Celts, Blacks, Mexican Americans, and Canadian and American Indians. Tabb, for example, applies a colonial model to an interpretation of the underdevelopment of American Blacks. Tabb asserts that the Black ghetto is an internal colony. Concomitant with having the external characteristics of an underdeveloped part of the Third World (i.e. low incomes, high unemployment, high dependency rates), Tabb states that the ghetto also operates as a dependent colony by supplying its unskilled labour as a cheap economic resource (Tabb, 1970: 22).

This interpretation stresses that the major characteritics of an asymmetrical colonial relationship are economic exploitation and political dependence and subjugation. Tabb explains that despite solutions politically sought and changes in the American economy, Black employees continue to be politically and economically dependent. Tabb argues that Black's:

> ... are an available source of labor when needed by the economy and at the same time a group set apart which can be confined to certain types of work(low-paying, hard, and unpleasant jobs) (ibid.: 27).

Tabb further compares the Black ghetto to a colony and argues that Blacks are politically dominated by the white political system and are not in control of the daily phenomena that affect their lives. Tabb also states that although they have been able to elect some of their leaders to political office, Black politicians are caught in the same circumstances as the leaders of former colonies that have become independent. They are dependent upon the political and economic power of the dominant white sector of society, and that the Black power elite assists the dominant power structure in the subordination of the Black population (ibid.: 30).

Generally, Tabb sees the Black ghetto as an internal colony which supplies only one commodity, its labour, and that they are the wards of a paternalistic system that actively promotes inferiority and dependence (ibid.).

Following this same analytical approach, Blauner (1969) used the colonial model in his research on Black poverty. He applied the colonial theory to the internal situation of Black Americans by identifying what he describes as the four principal mechanisms of colonialism. The first he labels "forced entry", which he describes as a contact situation during which the colonizers enter the colony through a forced penetration of the domestic economic and political intitutions. Secondly, a process of cultural genocide is begun which Blauner calls "cultural impact". During this phase the colonizers execute policies that undermine the traditional social, economic and ideological organization and structures of the colonized culture. Blauner's third colonial mechanism is "external administration". He describes this action as one in which the colonizers acquire political power for their own institutions, enabling them to redirect the colonized society to the economic benefit of the colonizing nation. Fourthly, Blauner says that the mechanisms of "racism" provide the colonizers with the ideological rationale for their subordination of the colonized. Further, he explains that the dialectic between the concepts of racism and inferiority are internalized within both the colonizer and the colonized through policies that make colonial relationships self-sustaining (Blauner, 1969: 393 - 408; also, see Memmi, 1965: xxiii - xxv).

John Ogbu, in his discussion of majority-minority relations, extends Blauner's argument by saying that "The dominant group usually regards them (dependent minorities) as inherently inferior in all respects" (1978:23, brackets added). He also says that this attitude is reflected in the belief that castelike minorities "are naturally suited for their low position in society" and that "their political subordination is reinforced by economic subordination" (ibid.).

In 1945, Raymond Kennedy described what he determined to be the five "universal traits" of colonialism: 'color line, political dependency, economic dependency, a very low stage of development of social services, and commensality' (1945: 308 - 311).

Kennedy argued that the "color line" was essential to the existence of colonialism and the structures of the social, economic and political institutions. His description is similar to Blauner's, that the presence of racism creates justification for the colonized's occupation of the lower strata in all of the colonial societies structures and institutions. Kennedy claimed that "the color line ... is the foundation of the entire colonial system", and is the basis for political and economic subjugation, inferior education, health and social services, and the lack of social contact between the colonizer and the colonized (ibid.).

Pablo Casanova, in his article "Internal Colonialism and National Development" (1965) also identified the color line, or racism, as an essential part of the colonial relationship:

> Racism with its complicated rules of treatment, with prejudices and perceptions of the colonized man as a thing, is linked to the internal policy of the colonized society, to a policy of manipulation and discrimination, which appears in the judicial, educational, linguistic, and administrative order which tends to sanction and increase social dichotomies and the relations of domination and exploitation characteristic of colonies (1965: 32; also, see M. Harris, 1964: 95 - 99).

Barrera, Munoz and Ornelas, and others have demonstrated that the theory of colonialism is useful in the analysis of the political situation of the Mexican-American barrios. Barrera, et. al., distinguish between "external colonialism" and "internal colonialism." These authors claim that colonialism is internal, rather than external, if the colonized population is systematically deprived of the means to control their social and economic institutions, while at the same time they are said to have the same legal status as the dominant group. Barrera, et. al., describes the situation as:

> The crucial distinguishing characteristic between internal and external colonialism does not appear to be so much the existence of separate territories corresponding to metropolis and colony, but the legal status of the colonized. According to our usage, a colony can be considered "internal" if the colonized population has the same formal legal status as any other group of citizens, and "external" if it is placed in a separate legal category. A group is thus internal if it is fully included in the legal-

> political system, and external if it is even partially excluded from equal participation in a formal sense (1972: 483).

The concept of colonialism has been used to analyze the North American Indians asymmetrical relationship to the United States and Canada. Everett Hagen and Louis Schaw, in The Sioux on the Reservation: An American Colonial Problem (1960), identify what they regard as being the reasons leading to Indian dependency and underdevelopment. Hagen and Schaw argue that there is a colonial relationship between the Bureau of Indian Affairs (BIA) and the Rosebud and Pine Ridge Sioux Tribes:

> The relationship of the government to the Indian has not been one either of partnership and equal cooperation or of giving and receiving advice and aid in solving mutual problems, but rather of controlling and being controlled (1960: 7 - 8).

Hagen believes that the Indian - United States relationship is typical of colonialism, and that destruction of the traditional Indian social structures was caused by military suppression and the forced removal of Indians from their traditional lands and their relocation on reservations. In On The Theory of Social Change, Hagen argues that:

> The essence of the colonial situation is that a people have been conquered, the functioning of its culture and social structure disrupted and suppressed in some degree, and alien control imposed with such force that resistance is futile (1962: 471).

Hagen claims that the foreign codes of civil and criminal law and the European concept of private property destroyed the economic base of Indian societies. At the same time, the repression of traditional religious and cultural practices, and the Indian languages, undermined the social structure of the Indian societies (ibid.).

Several other writers have used the colonial argument to analyze and explain the subordinate status of Indians. Robert K. Thomas, in an article entitled "Colonialism: Classic and Internal", describes the asymmetrical relationship between the Indian and the Federal Government as being colonial. Thomas maintains that the colonial relationship has promoted the destruction of traditional Indian social institutions. This, when combined with the high degree of social isolation created by living on the reservation is, according to Thomas, counter-developmental and reinforces the subordinate status of Indian people (1966-67: 37 - 43).

Thomas attempted to refine the application of colonial theory to the American Indian, by identifying two specific types of colonialism: the first is "classic colonialism", which is characterized by "specified legal bureaucracies" that are created to administer to the colonized population; and the second is "hidden colonialism", which Thomas says operates through the institutions of the dominant culture to control the subordinate colonized culture (ibid.: 37 - 39).

Thomas claims that American Indians are a prime example of classic colonialism because Federal agents administer Indians in much the same way as their British counterparts administered Africans. In another article, "Powerless Politics", Thomas states that:

> ... most American Indian reservations,(are) an example of a very complete colonial system - an internal colonial system; a system set up and continued with the best of benevolent intentions, to be sure, but a colonial system none the less (1966-67: 50, brackets added).

Thomas states that an important effect of this internal colonialism has been the creation of an internal elite of "marginal people" who are used by the BIA as administrators of Indian people (ibid.: 47).

Thomas also examined the political implications of internal colonialism at Pine Ridge:

> In a larger sense, the tribal government is an arm of the Bureau of Indian Affairs. The local police chief, when I was on the Pine Ridge Reservation was a member of another tribe and a federal employee not responsible either to the

> tribal government nor to his constituency (ibid.: 51).

Thomas sums up his position by describing the political and economic power of the Bureau of Indian Affairs as a colonial bureaucracy that controls the distribution of high paying jobs, public works, tribal meetings, capital, tribal economic enterprises, and generally the daily lives of the entire reserve population (ibid.).

In a similar article, "Menominee Termination: From Reservation to Colony", N. O. Lurie draws on Thomas's "classic" and "internal colony" concepts to describe the power of the dominant United States Government to control the Menominee (1972: 257 - 270). Lurie concludes that the Federal Governments plan to terminate the Menominee's special status, by transferring Federal authority to the State of Wisconsin, "destroy(ed) whatever controls the people once exercised to make their leadership answerable to them (ibid.: 268, brackets added). The leadership of the Menominee became accountable to the State of Wisconsin, and not to the people who elected them.

E. Palmer Patterson, in "The Colonial Parallel: A View of Indian History" (1977) says that the colonial model is applicable to the Indian experience in North America and that it parallels the experience of other colonized peoples around the world (1977: 1 - 17). His arguments are similar to those of Hagen and Thomas in his conclusion that Indian reservations provided the necessary vehicle for the subjugation of the Indians. Patterson highlights the similarities between the treatment of North American Indians and of indigenous groups in Mexico and Africa:

> The reduccio or congregacion of Mexico and the reserve system in Africa, including the recent Bantustans, provides further illustration of the extent to which Canadian reserves and American reserves of Indian experience may be seen in the context of a general colonial experience (ibid.: 27).

Patterson describes several other parts of the Indians' experience of colonial relationship. Included in his list are the use of military force to subjugate the indigenous population, the introduction of contagious diseases, the forced removal of Indians from their traditional lands, and the rise of resistance movements such as messianism as a reaction to colonial subjugation.

Patterson points out that while certain comparisons help to establish the colonial parallel in Indian history, the North American Indian experience has its own specific characteristics:

> Unlike examples in Africa and Latin America, most Canadian and American reserves were not labor pools for white industry, mining, and agriculture, but simply a means of removing Indians from desired land (ibid.).

Patterson argues that the major difference in the Indians case lies in the way the economic profits were taken from the colony. For example, he cites the introduction of the alien system of land tenure that was forced on the Indians:

> To defraud the Indians from the lands which the settlers had already been granted by the King before leaving home, they negotiated treaties for land. The signers, frequently had neither the right to sell in terms of traditional authority, nor any clear conception of what they were being asked to do (ibid: 5).

Patterson argues that the Indian was considered as little more than an object to be dominated by the European colonizer, and that once European hegemony was established in North America the Indian ceased to be of any further importance to the European nations.

Joseph Jorgenson, in "Indians and the Metropolis" (1971), uses the metropolis-satellite model of colonial relations put forward by A. G. Frank (1967), to explain the Northern Ute dependency and underdevelopment. Jorgensen' economic argument is that on-Reserve Indian's have been forced into a metropolis-satellite relationship, and that the economic surplus of human and natural resources has been drained off by the metropolis (1971: 66 - 113).

Jorgenson states that the Utes were forcibly removed from their productive lands and were placed upon relatively poor land, while their traditional lands were taken over by the colonizers. Also, the United States military was used to subordinate the Indians and the Indian Agents were given complete control over Ute internal affairs. Jorgenson describes the consequences of this forced relocation:

> ... the once independent Ute Indians had become subject populations. They no longer could administer their own affairs; no longer had access to their resources; in their status as non-citizens and as dominated people controlled by the United States army and a bureau of the federal government they had no access to the locus of political power (ibid.: 94).

Jorgensen argues specifically that the Indian's underdeveloped economic and social condition is a result of the dynamics of the colonial relationship, which is characterized by political oppression and an exploitative economic relationship (ibid.: 85; also, see L. Lamphere, "The Internal Colonization of the Navajo People", 1976: 6 - 14).

F. W. Voget says that the nature of the relationship between the Federal Governments of the United States and Canada is determined by the "government policies, administration, regulations, and programs" that were specifically designed for Indians (1961-62: 246). The effect of this relationship, is that Indians are not full citizens of the United States or Canada, and suffer economically and politically because of it.

Felix Cohen, an authority on American Indian law, argues that many of the current Indian economic problems are the result of the American governments colonialist attitude toward the Indian:

> Over the years, any order of command or sale or lease for which no justification could be found in any treaty or act of Congress came to be justified by such officials(Indian Agents and Indian Commissioners) as an act of "guardianship", and every denial of civil, political, or economic rights to Indians came to be blamed on their alleged "wardship". Under the reign of these magic words nothing Indian was safe (in L. C. Cohen, ed., 1960: 331 - 332).

Cohen's historical study of the Indian-United States legal relationship indicates the steps taken by the American government to gain complete control over Indian politics and economy. It describes the degeneration of Indian tribes from independent self-governing nations to dependent, domestic wards of the United States.

Cohen argues that the fundamental principle behind this asymmetrical relationship was the objective of the American Government to establish its hegemony over the Indians, in the most expedient and least costly way possible (ibid.: 379 - 380). G. P. Castile states that the United States Federal Governments policies "Denied (the Indians) their traditional subsistence activities" and turned the Indian reserves into "client populations" (1974: 221, brackets added). Castile describes the reserve as an "administered community", where "the source of decision-making lies outside the community for whom the decisions are made ..." (ibid.: 223 -224).

J. S. Frideres (1983) uses the internal colony model to explain the position of Indians in Canada. Drawing on the work of Blauner (1969) and Kennedy (1945), Frideres describes the Canada - Indian colonial relationship as having seven parts (1983: 295 - 299). The first part describes the initial contact between the two cultures and the general pattern that the "colonizing group forces its way into an area." The second part identifies the negative impact of the contact situation on the Indian people of Canada. Frideres argues that the "White colonizers destroyed the Native's political, economic, kinship, and, in most cases, religious systems."

Political and economic powerlessness and dependency make up the third and fourth parts of Frideres model. He emphasizes that the political and economic spheres of the colonial relationship are interrelated and that the source of power comes through the legislative authority of the Indian Act, R.S.C.., 1985, c. 1-5. Ponting and Gibbins support this position and emphasize that the Canadian Indian Act is an all encompassing legislative instrument:

> The Indian Act is a Lands Act. It is a Municipal Act, an Education Act and a Societies Act. It is primarily social legislation, but it has a very broad scope: there are provisions about liquor,

> agriculture and mining as well as Indian lands, band membership and so forth. It has elements that are embodied in perhaps two dozen different acts of any of the provinces and overrides some federal legislation in some respects....It has the force of the Criminal Code and the impact of a constitution on those people and communities that come within its purview (Doerr, 1974: 40, in Ponting and Gibbins, 1980: 8 - 9).

Long and Boldt also describe the "state of internal colonialism" (1988: 51) and how it manifests itself through the pervasiveness of the Department of Indian Affairs in Indian life:

> Under various sections of the Act, the DIA has functioned as a microcosm of government for reserve Indians, providing a complex of services that other Canadians have received from provincial governments: health care, welfare, education, law enforcement, housing, employment, agriculture and other services (1988: 3).

Donna Lee Hawley's book, The Annotated 1990 Indian Act, including treaties, statutes and regulations (1990), provides concrete examples of how the internal political and economic powers of Indian Bands are controlled by an external superordinate culture, Canada. The analysis presented by Hawley establishes a clear linkage between the legislative and regulatory powers of the Department of Indian Affairs and 270 judicial decisions that either support or negate Indian control over their own lives. The vast majority of the cases have been decided in favour of the Crown and clearly demonstrate the subordinate position of Indians in their political and economic relationship with Canada.

Frideres fifth colonial feature is the low level of social services, such as health and education, that are provided to Indian people. The census data presented in chapter one supports Frideres argument, and demonstrates that despite increased Indian administrative responsibility for the delivery of health, education and welfare services, the needs of Indian people are not being met relative to the services delivered to the general Saskatchewan and Canadian population.

Racism and the establishment of a colour line make up Frideres six and seventh aspects of an asymmetrical colonial relationship. These two features are discussed by Blauner, Kennedy, Casanova and others, as well, and are described as necessary features of the contact situation to rationalize the treatment of minorities.

J. R. Ponting (1986) takes an ahistorical approach to the question of whether internal colonialism exists in the day to day relations between Indian Bands and the Department of Indian Affairs. His "empirical, micro-level (analysis of) indicators of internal colonialism" (ibid.: 86, brackets added) includes factors such as communication, decision-making, economic underdevelopment, control features, risk-taking and inadequate funding of Bands. Ponting concludes that the day to day relations between the dominant Department of Indian Affairs and the subordinate Indian Bands are severely constrained by the legislative and regulatory demands of the Parliament of Canada. It is this situation that leads Indian Bands to accuse Indian Affairs officials of being either paternalistic, manipulative or colonial racists. It is also responsible for the Indian Affairs retreat into a policy of containment, because of the demands placed on them to stay within their budget and to be accountable to the Parliament of Canada, and not to their Indian clients (also, see Lithman, 1984).

Ponting does not see this asymmetrical relationship as a consequence of a colonial relationship between Canada and Indians, but rather a result of:

> class domination and of the state acting in the interests of itself and of certain social classes to the detriment of other social classes (1986: 105).

He ignores the motives for colonization, the colonizers objective of securing economic benefits, and the political, religious, educational and economic strategies used by the colonizers to dominate the colonized (Cornell, 1988: 36, 40). For my purposes, the class analysis of Canadian Indians is not suitable in order to understand the historical factors that created "the specific realities of asymmetry, inequality, and domination" (Omtner, 1984:149). As Frideres has pointed out:

> the ultimate consequence of colonization is to weaken the resistance of the colonial Natives to the point at which they can be controlled (1983: 299).

The key element here is control, and as Hawley (1990) and Cassidy and Bish (1989: 40 - 41) have pointed out, the locus of political and economic power in Canada lies fully outside the control of Indian people.

Peter Worsley, in "Bureaucracy and Decolonization: Democracy from the Top", describes the contemporary circumstances of the Northern Saskatchewan Cree and Chipewyan as being one in which they occupy a subordinate status, in relation to the dominant legal, social, political and economic institutions (1965: 378 - 379). Worsley argues that in the Northern Saskatchewan case, attempts at decolonization have been controlled by the dominant culture and "bureaucratized from the beginning" (ibid.: 376). The result is that the Cree and Chipewyan people remain in an asymmetrical relationship, externally controlled by the Saskatchewan and Canadian Governments.

Dryzek and Young (1983) and Bean (1977) concur that the administration of Indian and Inuit Affairs in the circumpolar regions of Alaska and northern Canada is characterized by an internal colonial relationship between the superordinate and subordinate cultures. The governments legislative, regulatory and administrative controls impact on all aspects of native life and determine the nature of the relationship. This "administrative determinism" of Indians is described by Carstens (1971: 129 - 130, in Lithman, 1984: 9) as being an important factor in the creation of "little colonies within the borders of the dominating nation" (ibid.).

Michael Hechter (1975) takes the analysis of asymmetrical relations several steps further in defining the characteristics of an internal colony. Hechter identifies five variables that he claims aid in the analysis of the concepts of not only an "internal colony", but also of a "colony" or a "peripheral region" (1975: 349). The first of these variables focusses on "the degree of administrative integration", which he defines "as the extent to which laws passed for the core apply in the periphery" (ibid.). The second addresses the citizenship status of the peripheral population, which Hechter defines as being measurable according to "three components:

civil, political and social rights" (ibid.). The third variable stresses the importance of the relations between the core and the periphery, and specifically the issue of "the prestige of the peripheral culture" (ibid.). The fourth variable emphasizes "the existence of geographical contiguity" between the core and peripheral cultures, and the fifth variable considers "the length of association between the periphery and the core" (ibid.). Hechter excludes economic dependency from the list of variables, because he views it as being "a common feature of all three concepts" - colony, internal colony and peripheral region (ibid.).

Hechter summarizes his argument by stating:

> If each of these variables is assigned a high or low rank, then a **colony** is a region generally ranked low on all five variables: an **internal colony** is given a high rank on (1), (2), and (4), and a medium rank on (5); and a **peripheral region** is ranked highly on all the variables. From this exercise, it is easy to see that the situation of the internal colony has more in common with that of a peripheral region than with an (overseas) colony. Yet, the existence of a culture of low prestige within a peripheral region is justification enough for the establishment of an internal colony category: without it, there can be no cultural division of labor (ibid., emphasis in original text).

Although Hechter's work was on the Celts and their relations with England, he claims that this same set of variables can be used to analyze any asymmetrical relationship between cultures. On the position of 'Amerindians' in Latin America, he concludes that they "are an internal colony within a peripheral part of the world system" (ibid.: 348).

Using Hechter's model, I will demonstrate later that the Joseph Bighead Band is an internal colony within the national structure of Canada. The research of Blauner (1969) and Ogbu (1978) on "colonized" and "castelike" minorities, and the research of the other authors cited above, will be used to support the use of Hechter's variables in describing the Joseph Bighead Band as an internal colony in Canada.

Conclusion

The policies and practices of the Canadian Government conform to the model of internal colonialism. The appropriation of Indians lands combined with the destruction of the traditional Indian economy, social structure and ideology forced them into a subordinate relationship with the Canadian Government. The reserve system was a means of securing Indian lands for the colonial objectives of the European settlers. Concomitantly, the Indian people became increasingly dependent upon the Canadian Government, and specifically the Department of Indian Affairs for even the most basic requirements such as food, shelter and health care. The Canadian Department of Indian Affairs is the most powerful economic, social and political factor in Indian life today. It affects every aspect of the daily existence of Indian life.

The expansion of Canadian legislative and regulatory control over Indian people has resulted in Indian people not having the power to determine the nature of their relationship with Canada. Canadian Indians were made wards of the state and a bureaucracy was granted the authority to abolish Indian culture and replace it with Euro-Canadian culture.

Colonial theory emphasizes that any colonial relationship is asymmetrical and that the subordinate group has very little influence over the policies and practices of the dominant group. Theories of internal colonialism stress the hegemony of the dominant sectors power, within the context of independent industrial states. The Joseph Bighead Band relationship with Canada is an example of the internal colony model, and Michael Hechter's model is particularly useful for this analysis; in particular, administrative integration, citizenship status, prestige of the the subordinate culture, geographical contiguity and length of association between the superordinate and subordinate sectors in the relationship.

The internal colony model contributes to an understanding of the causes of the present day political and economic dependency of Indian people within their asymmetrical relationship with Canada, and it explains the sources of their conflict with the Department of Indian Affairs. In the case of the Joseph Bighead Band, the conflicts are stimulated by the Band's continued resistance to their present dependent social, legal and economic situation. The resistance/conflict is advanced through the political strategies developed by the Band.

CHAPTER 3.

LEGAL HISTORY OF INDIAN EDUCATION

The colonial and internal colony models discussed in Chapter 2. emphasized that the major consequence of the colonial relationship was the loss of autonomy by the colonized population. This loss of independence resulted in the aboriginal populations' social, political and economic organization being disrupted and being ascribed a subordinate status in their relations with the superordinate power. A major point put forward by the writers on internal colonialism, is that although the objective of colonial practice was economic gain, the strategies and operations were rationalized through a political process. And that it was the political decisions, and the power to enforce them by legislation and regulatory procedures, that has created a situation whereby the lives of Indian people in Canada are still subject to the will of the state, through a process of administrative determinism.

Those authors who refer to the resistance of aboriginal people to their subordinate status, describe these asymmetrical situations within the context of economic and political powerlessness. They also stress that the subordinate aboriginal peoples use social and ideological strategies and arguments for change, and political action as the vehicle to secure the changes they want.

This chapter will describe the historical trends in the delivery of educational programs to Indian people, within the context of Canadian Federal and Provincial jurisdictional responsibilities for education. Also, it will examine the Treaty provisions for education, review the past and present Indian Affairs approaches to the delivery of education to Indian people, and review the Province of Saskatchewan's educational policy and legislation as it applies to Indians. Finally, within this context I will review the educational policies created by Saskatchewan Indians and Indian Education Acts that have been developed by the Indian Governments of Saskatchewan.

Review of Indian Education History

In pre - Colombian Canada, the educational practices of the Indian cultures followed established patterns of enculturation and socialization that supported the accepted values and traditions of Indian society. These educational practices promoted social and ideological continuity and provided Indian children with the necessary skills to participate in their culture. It can be argued that this integration of education into everyday life was the only time in Indian history that Indian people had sovereignty over their children's education. Recent developments in Indian education, regarding the management and administration of Indian education, promote more local control. They do not, however, provide for Indian Government legislative, financial and program authority over Indian education.

The history of the asymmetrical relationship between Canada and Indians is reflected in the educational policies implemented by both the state and the church. The superordinate-subordinate relationship is described by J. R. Miller as a situation that systematically

> ... subjected the more vulnerable of the two parties not just to the rules and sanctions of their own society but also to the taboos and requirements of the more powerful group. It was, in short, coercion (1989: 96).

Miller argues that the assimilationist policies of Canada were based on a belief in "scientific racism", which provided the ethnocentric rationale for regarding Indians as being "socially, politically and economically inferior" (ibid.: 96 - 97). Miller concludes that:

> It was not the fur trader or even the soldier who worked the worst damage on Canada's Indians; it was the missionary, the school teacher, and the bureaucrat who thought they knew better than the indigenous people what was good for them (ibid.: 96).

Between 1600 and 1700 missionary schools were established in New France. The education was primarily religious, and was intended to promote the acculturative and assimilationist policies of the colonial governments. During this period, the principal agent of Indian education was the Roman Catholic Church, and most of the decisions about Indian educational policy were made in Europe. Financial support was inconsistent, however, and responsibility for Indian education alternated between the colonial governments and the church.

More stable financial support for Indian education was established between 1750 and 1850. Integration was promoted and the Church's commitment to converting Indians to Christianity guaranteed that Government funds were allocated to the Church. The Crown continued to be indecisive, however, on the question of its educational responsibilities to Indians. The colonial governments primary concern was with the development of the economic and political sectors of the colonies. The education of Indian children was not a priority. By 1850, the colonial government decided that to protect Indians from social exploitation they would be educated separately from European children.

Between 1850 and 1950 Canada held federal responsibility for all legislation about "Indians and lands reserved for Indians" in Section 91(24) of the Constitution Act, 1867. Also, this period saw the conclusion of the Treaties, some of which contained provisions for Indian education. Both of these developments are examined in more detail later in this chapter. Generally, however, the Federal Indian policy of removal and containment accelerated and the Indian population was concentrated and segregated on Indian Reserves. The intent of this containment on - Reserves was to centralize the administration of Indian Affairs and to facilitate the delivery of services, including the establishment of schools. Miller explains that this process of Indian removal and containment resulted from the Bagot Commission of 1842, which formed the basis for the Canadian legislation entitled 'An Act for the better protection of the Lands and Property of Indians in Lower Canada' and ' An Act for the protection of the Indians in Upper Canada from imposition, and the property occupied or enjoyed by them from trespassing and injury'. The political power of the Government is typical of an asymmetrical colonial relationship. Miller argues that the Government was:

> ... an agency beyond the control of Indians, a body in which Indians were not even eligible to have representation, arrogated to itself the authority to define who was or was not Indians (ibid.: 109).

The use of political power to define who was and who was not an

Indian, for legal and financial purposes, became a common practice in Canada. In 1857 Canada passed an 'Act for the Gradual Civilization of the Indian Tribes in the Canada's'. This legislation defined how Indians could become Canadian citizens. This assumption that Indians were not citizens is included in Hechter's model of internal colonialism - "the extensiveness of citizenship in the periphery" (1975: 349), and demonstrates that by the mid - 18th. century, the Indian populations had been made marginal to the political and economic ambitions of Canada.

J. R. Miller points out that:

> The 1857 Act thus created a paradox that persisted for a century: though the measure was designed to permit Indians to drop their distinctive status in favour of full British North American citizenship, it began by defining Indians as non-citizens. In other words, legislation whose purpose was 'to remove all legal distinctions between Indians and Euro-Canadians actually established them' in law (ibid.: 110).

Within the political structure of Canada, being an Indian became the only criterion for having different social, legal and civil rights. Indians were not citizens until the Federal Government of Canada said they were.

By 1900, 61 residential schools had been established in Canada to provide education to 3,257 Indian students (Indian Affairs, 1982: 6). The majority of the residential schools were operated by the Churches, with some financial support being provided by the Federal Government. From the time of Confederation to about 1950, a significant number of Indian children received their education in residential schools located on Indian Reserves. The good and bad of this form of education has been debated by both Indians and non-Indians. Generally, however, this form of education was resented by Indian people (ibid.: 7).

Between 1950 and 1970, the assimilationist policies of the Federal Government intensified and the Department of Indian Affairs promoted the integration of Indian people by entering into educational agreements with the provincial school systems. By 1979, the Department of Indian Affairs had negotiated 683 tuition agreements, for the education of 48,757

Indian children in provincial schools across Canada. This student population total represents about two-thirds of the total Indian school enrollment (ibid.). Most of these agreements are still in effect.

This administratively determined policy originated with the 1948 Federal policy to resolve all of Canada's Indian problems within 25 years. The policy of transferring educational responsibility to the provincial school authorities, was viewed as an effective method of forcing Indian people to assimilate into the dominant Canadian society.

The 1948 Policy is another example of the subordinate status Indians encountered in their colonial relationship with Canada. Indian parents and leaders had no input into this decision and although there was resistance to the policy, they did not have the political power to challenge the policies and operations of the Department of Indian Affairs. Miller would argue that this asymmetrical power relationship is another example of the coercive measures taken by Canada to 'peacefully' eliminate Canada's Indian problem (1989: 115).

Another example of Canada's hegemony over Indians, was the federal policy and practice of tranferring its responsibilities to the Provincial Governments, which reached its height in the White Paper of 1969. This policy initiative proposed to eliminate the constitutional and legislative bases for discrimination against Indians. One of its principle arguments for change was that all Indian educational services should be provided by Provincial educational authorities. Indian resistance to the White Paper was immediate and was based on the Treaties and the Crown-Indian trust relationship. Indian leaders accused the Federal Government of abrogating its responsibilities to Indian people.

"Citizens Plus", or the Red Paper, was a counter proposal presented to the Prime Minister of Canada, in 1970, by the Indian Chiefs of Alberta, that rejected Canada's attempts to abrogate its responsibilities to Treaty and Registered Indians:

> The White Paper Policy said "that the legislative and constitutional bases of discrimination should be removed."
>
> We reject this policy. We say that the

> recognition of Indian status is essential for justice.
>
> Retaining the legal status of Indians is necessary if Indians are to be treated justly. Justice requires that the special history, rights and circumstances of Indian people be recognized.....
>
> The legal definition of registered Indians must remain (1970: 4 - 5).

As a result of the unified Indian opposition, the Federal Government never received legislative support and the White Paper was withdrawn as a Federal policy initiative. S. M. Weaver concludes that:

> In the final analysis the White Paper was discredited not because it failed to cater to Indian demands, but because it failed to offer reasonable methods for coping with the problems Indians were experiencing. The policy was a response to values within the policy-making arena, not to the basic problems facing Indians (1981: 197).

1970 to 1990 was characterized by a gradual policy change by the Federal Government towards limited support for Indian initiatives. Indian Control of Indian Education was one of the major Indian initiatives of this period.

On December 21, 1972, the National Indian Brotherhood sent its policy paper," Indian Control of Indian Education", to the Federal Government. In their analysis of Indian education, the National Indian Brotherhood rejected current policies and practices of Indian education in Canada and claimed the right to Indian Control of Indian Education. The two basic principles of this argument were parental responsibility and local control (1972: 3, 6).

The recommendations in the Fifth Report of the House of Parliament Standing Committee on Indian Affairs (1973), reflected a commitment by the Parliament of Canada to Indian education and supported many of the positions taken by the National Indian Brotherhood, and the Provincial and Territorial Indian organizations across Canada. Also, the Report emphasized the need to obtain consent from Indian parents before Indian students could be transferred from a Federal school to a Provincial educational system.

Since 1973, however, Indian parents, Band leaders and Indian organizations have had a great deal of difficulty in achieving these objectives. The primary reason for this has been the difference between perceptions and definitions of Indian Control used by the Indian people and those used by the Department of Indian Affairs. Also, according to a study of financial responsibility for Indian education, jurisdiction, management and administration, program content and educational financing are all contentious issues (Native Law Centre, 1983: 7). Despite these problems, Indian parental and local control has increased. In Saskatchewan there are now 59 Band controlled schools and 5 Federally operated schools. Indian students also attend 236 different provincially operated schools in Saskatchewan (Indian Affairs, 1990). In 1973 all Saskatchewan Indian students either attended a Federal or Provincial school.

In Saskatchewan, Indian control is not limited to Band administered schools. Indian people and their representative organizations are becoming involved in Provincial Boards of Education and have fought for and created Indian controlled post - secondary educational institutions. The Saskatchewan Indian Cultural College began in 1972, the Saskatchewan Indian Federated College and the Saskatchewan Indian Community College in 1976, and the Saskatchewan Indian Institute of Technologies in 1985. These institutions remain under the control of the Saskatchewan Indian Governments.

On January 24, 1978, the educational policy position of Saskatchewan Indians was articulated by the Third Vice Chief of the Federation of Saskatchewan Indians, Albert Bellegarde:

> Indian Band Governments ... have the legitimate right, or authority, to insist that the Department refrain from interfering in the internal affairs of the Indian Nations. This is the legitimate domain of Indian Government. Any educational planning and decision making activities will be developed from the Band's point of view and based on the values, culture, language and society of the Band Government

(SICC, 1978: 4).

Based on these principles of autonomy, Saskatchewan Indian Governments began a process to codify Indian law as it applied to the education of Indian children in Saskatchewan. By relying on Canadian law only, the Government of Canada has resisted this Indian objective. Before describing the process followed and the Indian education laws that have been developed by Indian Governments, I will describe the existing constitutional framework, which governs the education of Indian students in Canada. The legislation used to provide educational services to Indians will be described. Also, I will describe the present Province of Saskatchewan's educational legislation and policy, as it applies specifically to Indian people.

Constitutional Authority for Indian Education

The legislative basis of Canada's relationship with Indians, derives from s.91(24) of the Constitution Act, 1867. Canada's constitution grants exclusive authority to Parliament to make laws with respect to "Indians and lands reserved for the Indians." The Constitution Act, 1867, also delegates full legislative responsibility for education to the Provinces under Section 93 (Foley, 1973: 1; also see Hawley, 1984).

Richard Bartlett says that Federal authority:

> .... provided little protection from interference and intimidation under federal and provincial jurisdiction and did not recognize any substance to the powers of Indian bands with respect to lands and resources (1986: 5).

The Federal Government's authority over Indians and their land gives Parliament the power to legislate in relation to Indians, but it does not insist that Parliament to do so in all matters (Foley, ibid.; also see Paquette, 1986 and Bartlett, 1986: 5 - 26). Bartlett argues that the Federal Government has always intended to abrogate its constitutional responsibilities, by transferring its jurisdiction and authority over Indians to the provincial governments of Canada:

> Federal Government policy has historically looked forward to the day when Indian lands become municipalities under the jurisdiction of

> the provinces. To this end the Federal Government has always accepted, and sought to extend, the jurisdiction of the provinces. The Indian Act and the Regulations have been drafted in accordance with such policy (1986: 6).

Also, Federal jurisdiction creates a situation where Indian people do not have the right to exclusive authority over the education systems to which their children are exposed to (Foley, ibid.).

The Constitution Act, 1867, is not the sole authority for the structure and operations of the education systems in Canada. Education systems may be created under the statutes enacted by Provincial Legislatures in Canada. The administrative rules and regulations of the Provincial Departments of Education, the rules and regulations of local school boards and the decisions of the Courts, as they apply to education, are based on the authority of Provincial legislatures.

This same arrangement applies to the structure and operation of education for Indians. Although Indians are constitutionally a Federal responsibility, and the Canadian Indian Act reflects this jurisdiction, education for Indians is simultaneously based on Provincial legislation, on Department of Indian Affairs administrative rules, and on court decisions.

The sole unique characteristic of the Federal Government - Indian educational relationship is the Treaties. Canada's responsibility for Indian education is also based on the various Treaties entered into between the Crown and the Indian Nations.

Aboriginal and Treaty Rights: Education

The current asymmetrical relationship between the aboriginal peoples and the European nations who colonized North America, can be explained by describing the rationale and methods the colonial powers used to establish their hegemony over Indian lands. European domination was built on a theory of aboriginal title as it related to lands "discovered" by Europeans and the indigenous populations of those lands. The discovery theory was expressed in 1532, by Francisco de Vitoria, in his lectures on Indian rights (in Cohen, F., 1942: 12). The theory had its first legal application almost 300 years later in the Court decision of Johnson v. McIntosh (1823). In this judgement Indian people were:

> Admitted to be the rightful occupants of the soil, with the legal as well as just claim to retain possession of it, and to use it according to their own discretion; but their rights to complete sovereignty, as independent nations, were necessarily diminished, and their power to dispose of the soil at their own will, to whomsoever they pleased, was denied by the original fundamental principle, that discovery gave exclusive title to those who made it (1823: 253 - 254, emphasis added).

The colonial theory that "discovery" provided title and total jurisdiction to the European nations "discovering" North America, and the concomitant principle that aboriginal title was simply one of prior occupancy, was adopted in Canada. In the St. Catherines Milling case (1888), the Canadian Privy Council defined aboriginal title as a "personal and usufructuary right, dependent upon the goodwill of the Sovereign" and "that there has been all along vested in the Crown a substantial and paramount estate, underlying the Indian title..." (1889: 54). Almost one hundred years later, the Supreme Court of Canada, ruling on the Guerin case decided that the European claims of discovery were justified. The Supreme Court decided that "discovery" was an international legal principle that gave ultimate title in the land to the nation which discovered and claimed it. Indian title was described as being a "mere burden" on the title held by the Crown (Guerin, et. al. vs. The Queen, 1985).

The doctrine of discovery has been used by Canadian Courts to reinforce the dominant political power of Canada over Indian people. In the case of The Queen vs. Secretary of State (1981), the Court decided that the Treaties did not give Indian people an equal standing in their relations with the Crown:

> Although the relevant agreements with the Indian peoples are known as 'treaties', they are not treaties in the sense of public international law. They were not treaties between sovereign states, so that no question of state succession arises (in Opekokew, D., 1982: 19).

Neither the concept of Indian title nor aboriginal title have been clearly defined by the Canadian judicial system and its courts. Also, the question of aboriginal rights has never been clearly defined to the satisfaction of all of the parties concerned. The Federal, Provincial and Indian Governments tried to create an agreed upon definition, for entrenchment in the 1982 Canadian Constitution, and failed. Throughout Canadian history, aboriginal or Indian title and rights have been defined by the Courts as a "right of occupancy" (Johnson vs. McIntosh, ibid.), "a personal and usufructory right, dependent upon the goodwill of the Sovereign" (R. vs. St. Catherines Milling, ibid.), "an equitable title and interest, a usufructory right to occupy the lands and to enjoy the fruits of the soil, the forest and the rivers and streams which does not in any way deny the Crown's paramount title" (Calder, et. al. vs. Attorney General of British Columbia, 1973: 87), and is "best characterized by its general inalienability" (Guerin, ibid.).

However aboriginal title has or has not been defined by the Courts, the colonial governments accepted that aboriginal interest in the land needed to be recognized and extinquished before the colonists could justifiably settle on Indian land and exploit its mineral, floral and faunal resources.

The Royal Proclamation of 1763 set the terms of reference by which the Crown was to negotiate territorial access for European settlers. Cassidy and Bish point out that the process dictated by the Royal Proclamation, which both the colonial and Canadian Governments followed, is contradictory in its objectives and was based on the "duality of recognition and assimilation" of the Indian Nations (1989: 4). Cassidy and Bish argue that:

> The Royal Proclamation of 1763 reflected and framed the contradictory nature of Britain's and later Canada's relationship with her original peoples ... King George confirmed that relationships with Indians and matters of Indian land were international matters until international agreements creating the basis for domestic relationships could be reached. At the same time, he pronounced Indian peoples to be under "Our Sovereignty, Protection and

Dominion" (ibid.).

The Royal Proclamation stated very clearly that although recognition was to be made of the Indian Nations prior claim to the land and that the Indian people were to be protected, the colonial objective was to establish the paramountcy and sovereignty of the British and later the Canadian Governments. In simple terms, the intent was to subjugate the aboriginal peoples of Canada, so that they occupied a subordinate, dependent position in an asymmetrical colonial relationship.

Between 1680 and 1923 over 480 treaties, grants and surrenders were made "between the Crown and the Indian Nations" (Kuhlen and Skarsgard, 1985: 2). W. F. Pentney argues that the

> early treaties reflected the growing political and economic dominance of European nations, and these defined the relationship with aboriginal nations in terms of dependency and allegiance. Later treaties were more pedestrian, taking the form of simple land transfers and exchanges of promises (1987: 123).

The Western Treaties and Education Rights

The negotiation and signing of the Treaties in Western Canada adhered to the purposes and principles of the 1763 Royal Proclamation. The Robinson-Huron Treaty of 1850 had incorporated the guidelines of the Royal Proclamation, and provided the model that was used by the Government Treaty Commissioners in their negotiations with the Indian Nations of Western Canada; exclusive of the majority of British Columbia.

Canada's primary reason for wanting the Treaties agreed to by the Indian Nations were economic, and a political rationale provided the vehicle for their signing. As was pointed out earlier, the Canadian objective was to alienate the Indians from their lands and make them subordinate to the political and economic priorities of Canada. This objective was achieved through Parliament's passage of the Indian Act of 1876, which consolidated Canada's Indian policies. The legislation legally defined Indians as minors, "with the Government as their guardians" (Leslie, J. and L. Maguire, 1978: 60), and it legally defined Indian lands as belonging to Canada (ibid.: 61). By these political decisions, Canada formalized its control over its relations with the Indian nations. With the entry of Manitoba into Canadian Confederation in 1870, and British Columbia in 1871, the pressure for European settlement and resource exploitation increased.

The Canadian Courts have taken the position that the 480 Treaties involved a land surrender or extinquishment of Indian or aboriginal title to the land covered by the Treaties. In return for the alienation of title to the land, by Treaty, the Indians received certain promises and benefits.

The articles of the western Canadian Treaties make reference to the provision of schools and teachers to the Indian Nations. In Treaties number 1 to 6, the Crown agreed to "maintain a school on each Reserve", either "whenever the Indians of the Reserve should desire it" (Treaties 1 and 2), or whenever "Her Government of her Dominion of Canada may deem it advisable whenever the Reserve shall desire it" (Treaties 3, 5 and 6), or "as soon as they settle on said Reserves and are prepared for a teacher" (Treaty #4). In Treaty numbers 7, 8, 9 and 11, the Crown agreed "to pay the salaries of such teachers" either when "Her Government of Canada may deem advisable, when the said Indians are settled on their Reserves and shall desire teachers" (Treaty 7), or when "Her Majesty's Government of Canada may deem advisable" (Treaty's 8 and 11), or "also to provide such school buildings and educational equipment as may seem advisable to Her Majesty's Government of Canada" (Treaty 9). Treaty number 10 states that "Her Majesty agrees to make such provisions as from time to time may be deemed advisable for the education of the Indian children" (Morris, 1891).

With the signing of the Treaties and the passage of the 1876 Indian Act, by the Canadian Parliament, Canada asserted its dominance over the Indian Nations. By this, Canada unilaterally determined and controlled Indian lands and Indian identity, and by administrative fiat determined the Crown's responsibilities to Indians. In the case of education, however, section 93 of the 1867 Constitution Act created a jurisdictional problem regarding which level of Government, Federal or Provincial, had jurisdiction and, therefore, responsibility for the actual delivery of educational services to Indian people. Section 93 specifies that education falls within the jurisdiction of the Provinces of Canada.

In 1910 Canada took the Province of Ontario to court, in an attempt to show that the Provinces were obligated to fulfill the terms of the Treaties between the Crown and the Indian Nations. In the case of Canada vs. Ontario (1910), the Privy Council decided that the obligation to fulfill annuity payments under Treaty #3 was the responsibility of the Federal Government. In its decision the Privy Council stated unequivocally that by entering into the Treaty, the Crown did not act as the agent of the Province, but that it acted in the national interest, subject to its powers and obligations under the Constitution Act, 1867. The Federal Government was, therefore, determined to be fully responsible for meeting all Treaty obligations (Dominion of Canada vs. Province of Ontario, 1910).

The decision in this case was based on the general articles of the Treaties only, and did not deal with specific items, such as education, that are identified under the division of powers sections of the Constitution Act, 1867.

Determining the level of the Canadian Government's Treaty obligations for Indian education has been the subject of debate. It is clear that Canada assumed some financial responsibility for Indian education. The written promises of the Treaties, however, are not clear regarding the degree of Federal Government responsibility. There is legal uncertainty regarding the level of obligation under such terms and phrases as "instruction", "children of the said Indians", and "as to Her Majesty's Government of Canada may deem advisable" (Legal Information Services, ibid.: 4). Foley argues that Section 91(24) of the Constitution Act, 1867, does not necessarily give the Federal Government power to legislate Indian education (1973: 1, 4). Foley also suggests that Federal legislation regarding Indian education may be outside of the Federal mandate, as the responsibility for education had been given to the provinces under Section 93 of the Constitution Act of 1867. He concludes that were it not for Canada's constitutionally supported relationship with Indians, through the Treaties, Indian education would be a provincial responsibility (ibid.: 4). Richard Bartlett in his analysis of Section 88 of the Canadian Indian Act cites the Supreme Court of Canada decision in R. vs. Dick to demonstrate that the Federal Governments intent is to make a "deliberate grant of jurisdiction to Provinces over Indians and their lands" (1986:8). Section 88 of the Indian Act imposes Provincial law on Indians, including Provincial education acts and their regulations.

The Canadian Courts

The Canadian Courts have decided that the Indian Treaties were not concluded between two sovereign nations and are not enforceable in international law. They have supported their decisions by using the laws and precedents of the dominant power in the asymmetrical relationship between the Indian Nations and Canada. The Government and the Courts of Canada have labelled Indians as "wards" of the Crown, "dependent upon the goodwill of the Sovereign." The Courts have also said that Parliament is supreme and Federal legislation can limit or abrogate Treaty obligations. This jurisdictional position has been taken in the Migratory Birds Convention Act (1870) and the Fisheries Act (1985), and their regulations assert Federal legislative paramountcy over the Treaties (Hawley, 1990: 107 - 111). Whether the Courts and Parliament will successfully claim this position of dominance, is questionable. The entrenchment of the phrase "existing Treaty and Aboriginal rights" in Section 35(1) of the Canadian Constitution Act (1982), and the protection of those rights under Section 52(1), of the same Act, have brought into question the legitimacy of these laws and regulations, as they apply to Indians.

The 1988 Canadian Bar Association Committee Report, Aboriginal Rights in Canada: An Agenda for Action, has concluded that historically the Canadian Courts and Government policies have consistently denied Indian political sovereignty and "the right to hunt, fish, trap and gather or (any sovereignty over) social and economic matters" (1988: 3, brackets added). The Bar Association also points out that Section 35(1) of the 1982 Constitution Act is having an impact on court decisions, but that "the effect of Section 35 on treaty and aboriginal rights remains to be finally settled by the courts" (ibid.: 5). In other words, one of Canada's most powerful institutions, the judiciary, is to determine the Treaty and aboriginal rights of the subjugated original peoples of Canada. This illustrates the importance of the structural relations between Canada and Indians in the determination of Indian rights.

Citing judicial decisions up to and including 1985, Kuhlen and Skarsgard show that the courts interpretation of Section 35(1) of the 1982 Constitution Act, in its decisions on Treaty rights, have not been found in favour of Indian people (1985: 33 - 36). The case of R. vs. Bear (1983) is indicative of the court's ability to define, through a policy of containment, the rights of Indian people.

> The accused's appeal to the Saskatchewan Court of Appeal was dismissed. Mr. Justice Hall speaking for the Court ruled:
>
> "The enactment of section 35(1) of the Constitution Act does not exempt the appellants in this case from the operation of the Migratory Birds Convention Act" (ibid.: 35).

Kuhlen and Skarsgard cite seven similar cases which have had the effect of limiting Indian rights to a definition provided by the Courts of Canada (ibid.: 34 - 37).

The point here is not whether the Treaty right to education is a responsibility of the Canadian Government. This question has been historically and constitutionally recognized. The Canadian Government has accepted its responsibility. It is the extent of these rights and responsibilities that is questioned. The Canadian Courts have developed some special rules for Treaty interpretation, which are outside the customary rules of legal interpretation.

The Canadian Courts have said that the Treaties are not international, but domestic agreements and are, therefore, to be interpreted as being something in the nature of a "promise and agreement" or "contract" (Attorney General for Canada vs. Attorney General for Ontario,1897: 213; also, Town of Hay River vs. The Queen, 1979). The Courts do claim, however, that "the Treaties nevertheless impose upon the Federal Government a moral obligation to keep the terms of the Treaties" (ibid.). In the case of R. vs. Wesley, the judgement was that:

> Assuming as I do that our Treaties with the Indians are on no higher a plane that other formal agreements, yet this in no way makes it less the duty and obligation of the Crown to carry out the promises contained in the Treaties, with the exactness which honour and good conscience dictates... (R. vs. Wesley, 1932: 351).

In these Court decisions, the Treaties were interpreted so that the Sovereign's "honour" was not brought into question.

The Courts have recognized and recommended that the articles of the Treaties be interpreted in favour of protecting and not prejudicing the rights of Indians (R. vs. White and Bob, 1965: 652). In the case of White and Bob, the British Columbia Court of Appeal ruled that:

> The language used in Treaties with the Indians should never be construed to their prejudice (ibid.).

And in the case of R. vs. Cooper:

> Any ambiguity must be construed in favour of the exploited Chiefs (1969).

More authoritatively, Supreme Court Justice Dickson, in the case of Nowegijick vs. The Queen, was unequivocal in his statement:

> It is legal lore that, to be valid, exemptions to tax laws should be clearly expressed. It seems to me, however, that treaties and statutes relating to Indians should be liberally construed and doubtful expression resolved in favour of the Indians. If the statute contains language which can reasonably be construed to confer tax exemption, that construction, in my view, is to be favoured over a more technical construction which might be available to deny exemption (1983: 94, emphasis added)

The Canadian Courts have agreed that in interpreting the Treaties, the Courts should attempt to determine the common understanding of both parties to the Treaties, and that in particular the oral evidence of the Indian people is important to any Treaty interpretation. In 1981 the Ontario Court of Appeals ruling on the Taylor and Williams case addressed this issue:

> Cases on Indian and aboriginal rights can never be determined in a vacuum. It is of importance to consider the history and oral traditions of the tribes concerned, and the surrounding

> circumstances at the time of the Treaty, relied on by both parties, in determining the Treaty's effect (R. vs. Taylor and Williams, 1981: 120).

Following the Queen of England's 1973 statement that "... my Government of Canada recognizes the importance of full compliance with the spirit and intent of your Treaties", the Canadian Government adopted this principle when they expressed their commitment to honour the Treaties. Treaty Indians have interpreted the Court's statements and the position of the Government to mean that the Canadian Government recognizes the spirit and intent of the Treaties and not just the literal and technical interpretation of the specific terms of the Treaties.

The educational provisions and assurances cited in the Treaties are documented in Commissioner Alexander Morris' record of the Treaty meetings and negotiations. It is these historical, oral statements that have been of great importance to the Indian Nations in their attempts to make the Government of Canada live up to its responsibilities under the Treaties.

Regarding the Northwest Angle Treaty #3 (1873), the Commissioner stated that:

> He wants his children taught. He is right.... I will also establish schools whenever any Band asks for these, so that your children may have the learning of the white man (Morris, 1971: 64, 58).

During the negotiations of the Qu'Appelle Treaty #4 (1874), Commissioner Morris stated that "whenever you go to a Reserve, the Queen will be ready to give you a school and a schoolmaster (ibid.:93). He further recorded that:

> The Queen wishes her red children to learn the cunning of the whiteman and when they are ready for it she will send schoolmasters on every reserve and pay them (ibid.: 96).

In the Winnipeg Treaty #5, Commissioner Morris noted in a letter to the Minister of the Interior that the Grand Rapids, the Pas and

Cumberland Bands were "sufficiently advanced" to be allowed schools (ibid.: 153 - 163).

With regard to the signing Treaty #6 with the Cree, at Fort Carlton and at Fort Pitt, Commissioner Morris wrote in 1876 that:

> The Indians, in these two Treaties, displayed a strong desire for instruction in farming, and appealed for the aid of missionaries and teachers. The latter the Commissioner promised (ibid.: 179).
>
> I was agreeably surprised to find so great a willingness on the part of the Crees to commence to cultivate the soil, and so great a desire to have their children instructed (ibid.: 194).
>
> The universal demand for teachers, and by some of the Indians for missionaries, is also encouraging. The former, the Government can supply (ibid.: 195).

Similar statements of Canada's intent to provide educational services to Indians were promised in Treaties 8 and 10:

> Further, Her Majesty agrees to pay the salaries of such teachers to instruct the children of the said Indians as to Her Majesty's Government of Canada may seem advisable (Treaty No. 8, 1899: 6).
>
> Further, Her Majesty agrees to make such provisions as may from time to time be deemed advisable for the education of the Indian children (Treaty No. 10, 1907: 12).

The current position of the Indian Nations on education is based on the Treaties and the right of self-determination, or sovereignty, over the internal affairs of the Indian Band Governments. Vice Chief Bellegarde's 1978 statement reflects the contemporary policy position of Indian Governments on sovereignty (see p. 35). The wording of the education provisions of the Treaties make it clear, however, that the Crown fully intended to retain full political and economic control over Indian education. Phrases such as "as may from time to time be deemed advisable" reflect the asymmetry in the Canada-Indian relationship. The decision as to when and in what form educational services to Indians would be provided rested entirely with the Government of Canada, and did not include either the provinces or the Indian Nations.

Constitutional Authority, the Indian Act and Education

Canada has Constitutional authority and jurisdiction over Indians, and combined with its education Treaty obligations, the Parliament of Canada chose, through the Indian Act, to legislate with respect to the education of Indian children. The current Indian Act provisions dealing with education, include Ministerial program, financial and administrative control over Indian education.

This political authority and administrative control over Indian education is reflected in Sections 114 to 122 of the 1985 Indian Act. Under Section 114 of the Indian Act, the Minister of Indian Affairs may, with Cabinet authorization, enter into agreements with provincial and territorial governments, public and separate school boards, and religious or charitable organizations to provide for the education of Indian children "in accordance with this Act." Also, the Minister may "establish, operate and maintain schools for Indian children" (Indian Act, R.S.C. 1985, c. I - 5). The use of the term "may" in the Indian Act ensures that the nature and level of Governmental obligation to Indian education stays within the control of the Federal Government. In other words, the Federal Government has discretionary powers over Indian education that the Indian people do not have.

Foley questions whether Federal-Provincial agreements for the education of Indian children in schools off the Reserves is a legitimate use of the Ministers authority under Section 114 of the Indian Act. He argues that these joint agreements are not intended for the education of Indian children "in accordance with the Act", but rather to impose provincial jurisdiction by making the Provincial Education Act the applicable law. Foley questions the Minister's authority to delegate educational jurisdiction to the Province by this method, thereby diminishing Federal obligations for Indian education (Foley, 1973: 8 - 10).

No matter how valid this argument may be, it ignores other provisions in the Act. Section 4, Subsection 3 of the Indian Act limits the application of the education provisions of the Act to Indians who are ordinarily resident on a Reserve, or who live on Federal or Provincial Crown lands. The Federal Government has used this provision in conjunction with Section 114 to justify entering into joint Federal-Provincial education agreements. The Federal Government has consistently taken the position that the education of Indian children, who reside off - Reserve and attend Provincial primary, elementary and secondary schools, are the responsibility of the Province.

Under Section 115, the Minister may make Regulations for such things as standards of teaching and educational facilities; provisions for the transportation of children to and from school; and arrangements for the support and maintenance of children attending religiously operated schools and residential schools.

Sections 116 and 117 set out who is or is not required to attend school, and includes factors such as age, access to school, sickness, home and work responsibilities, and the power of the Minister and the Department to enforce these sections of the Indian Act. Section 118 empowers the Minister to designate which school an Indian child shall attend, subject to the religious preference of the parents. Section 119 provides for the enforcement of school attendance, and considers truancy or expulsion from school to be juvenile delinquency. Sections 120 and 121 make further reference to religious preferences, as they relate to teachers and the establishment of separate schools. And, Section 122 deals with specific definitions for the purposes of Indian education (Indian Act, R.S.C., 1985, I - 5).

The Canadian Parliament has primary responsibility for enacting legislation over Indian education. Not all legislation, however, is created and ratified by Parliament. Some legislative authority is delegated to Ministers, or the Cabinet, who exercise their powers by making regulations, or by issuing Ministerial Orders or Orders in Council. These actions are taken for the administrative convenience of the various Departments of Government. Taken together, the Regulations, Ministerial Orders and Orders in Council are called subordinate legislation.

Subordinate legislation plays a major role in the administration of

Indian education, and the role of the Department of Indian Affairs and the Civil Service is of major importance. Any Indian education activity, particularly in the area of funding, ultimately requires Headquarters approval in Ottawa. The Department of Indian Affairs approval process is often initiated at the District level. It is then referred to the Regional Office, before it goes to Indian Affairs Headquarters for the consideration of either the Minister or the Government.

Specifically, decisions may be made on Indian education by Order in Council(Cabinet), or by the Minister of Indian Affairs. The Governor General, on the advice of the Cabinet has the direct authorization to issue Orders in Council in respect to Section 114(1), concerning Ministerial Agreements with provincial and territorial governments, public and separate school boards and religious and charitable organizations. The Governor in Council may pass an Order in Council against the establishment of separate schools on Indian Reserves under Section 122. And indirectly, he may issue Orders in Council that provide for educational services under Section 69 of the Indian Act, which deals with the Band management of funds.

Section 114 of the Indian Act, R.S.C. 1985, I-5, does not permit the Minister of Indian Affairs, or the Governor in Council, to enter into educational agreements with Indian Bands, in the same way as they can enter into agreements with provincial or territorial governments, charitable and religious organizations. Section 69 of the Act, however, allows the Governor in Council the discretionary authority, under subsection (1), to "by order permit a band to control, manage and expend" money and "may make regulations to give effect to subsection (1) and may declare therein the extent to which this Act and the Financial Administration Act shall not apply to a band to which an order under subsection (1) applies" (ibid.; underlining added). In this way the Government of Canada not only applies to Indian education, legislation in addition to the Indian Act, but ensures that the terms and conditions will control the management of those funds by an Indian Band.

In the area of Ministerial Regulatory authority, the Minister of Indian Affairs may, in compliance with the Indian Act, sections 114 to 122: 1) enter into agreements with other Governments or agencies to provide education for Indian children; 2) establish, operate and maintain schools for Indian children; 3) make regulations concerning school buildings and equipment, teaching staff, inspection of and discipline in schools, and generally, the education of Indian children; 4) provide transportation for Indian children to and from school; 5) rule on monies for children in residential schools to be spent for their maintenance; 6) require children under seven and over 16 to attend school; 7) excuse from attendance children under "efficient instruction" at home; 8) designate the school to be attended; 9) appoint truant officers; and 10) approve and regulate the establishment of separate schools on Indian Reserves.

Under Section 69 of the Indian Act, most of these Orders, whether they are Orders in Council, or Ministerial Orders, must not only fall under the authority of the Indian Act, but they also must comply with the terms of the Financial Administration Act of Canada. In other words, Indian Affairs must receive Treasury Board approval before any money can be managed by an Indian Band. All recommendations concerning the issuing of an Order in Council or a Ministerial Order involving the expenditure, directly or indirectly, of public funds for Indian education require Treasury Board approval. These Orders become part of the Treasury Board Minutes and form part of the broad range of subordinate legislation, that governs the day to day operations of the Department of Indian Affairs.

E. R. Daniels states that:

> Treasury Board Minutes ... confirm that the provisions of the Financial Administration Act have been met as well as the provisions of the specific Act under which the subordinate legislation is framed. Since virtually all subordinate legislation involves either new or increased expenditures of funds, or changes or refinements in policy that impinge upon such expenditures, the Treasury Board Minute has come to be an omnipresent and ubiquitous instrument in the development of subordinate legislation (1973: 127).

In the area of Indian education, Treasury Board Minutes (TBM) have covered the following: 1) authorization to operate kindergartens on Reserves (TBM No. 527861, 1958); 2) authorization to enter into agreements for the tuition of Indian children with Provinces, the Commissioners of the Territories, separate schools, etc. (TBM No. 691776, 1963); 3) authorization to provide assistance to Indian adults in training (TBM No.618950, 1964); 4) educational assistance to married persons (TBM No. 645116, 1965; 656945,1966); 5) authorization for a program of financial assistance with respect to the training, mobility and re-establishment of Indian and Inuit residents in Canada (TBM No.683751,1968); 6) a cultural and educational centres program (TBM No. 713491, 1972); 7) additional funding through supplementary estimates for core funding to Band, District and Inuit Settlement Councils (Northern Quebec) for the Band operation of educational programs (TBM No. 725973, 1974); 8) Indian local government programs for approval of the terms and conditions for the transfer of education capital funds to Indian Band Councils for the planning, design and construction of educational facilities (TBM No. 751608, 1977); 9) authorize an acceptable contribution to the National Indian Brotherhood and/or each Provincial or Territorial Indian organization and its affiliates, to provide an educational information and advisory service to Indian Band Councils (TBM No. 751378,1977); and 10) post secondary assistance program, policy and administrative guidelines (TBM No. 752408).

Indian education is primarily the responsibility of the Department of Indian Affairs, and is delivered to Indians who live on Indian Reserves and whose children attend school either on or off Reserve. This obligation derives from the Constitutional, Treaty, legislative and regulatory authorities delegated to the Department of Indian Affairs. The Department of Indian Affairs is responsible for the delivery of five educational programs (Indian and Inuit Affairs, 1982: 8 - 14).

Indian Affairs Programs

The Department of Indian Affairs is responsible to deliver five educational programs. The first of these is the Federal Schools Program. In June, 1990, in Saskatchewan, there were five Federal schools and 59 Band operated schools. The Federal schools function is to provide educational services similar to those provided under the Provincial Education Act. Under this system, an agreement is reached between the Treasury Board and Public Service Alliance of Canada, which governs the educational services provided by Indian Affairs. The employees status and role is governed by the Civil Service Act of Canada, and they are accountable only to the education branch of Indian Affairs, not to the parents whose children they teach or the Band Governments.

In addition to the mandatory education programs and curriculum, other services are provided depending on the requests of the Bands and the priorities of Indian Affairs. Some program funding is available for native languages programs, native teachers' aides for primary, elementary and kindergarten grades, school committees and curriculum committees, student allowances and curriculum development projects.

The second program responsibility of the Department of Indian Affairs is the Post Secondary Education Assistance Program. Under this program educational funds are provided to Indians to attend post secondary educational institutions.

The third is the Cultural/Educational Centres Program which provides funding to Indian Bands or organizations to carry out research, development and delivery systems in the areas of Indian languages, culture and heritage, curriculum development, Elders and youth activities. At present there are approximately 64 C/E Centres in Canada, ranging in size from single Band programs to the centralized Saskatchewan Indian Cultural Centre, which is responsible for its activities to 72 Saskatchewan Indian Bands.

The fourth program funded by Indian Affairs supports Saskatchewan Indian students, resident on reserve, who are enrolled in Provincially operated schools, under a tuition agreement between the Band and the local school division. During the 1989-1990 school year, 4,302 of 13,943 on Reserve Indian students attended 236 Provincial schools under 26 of these kind of funding arrangements (INAC, 1990). This total does not include the Provincial schools that are being attended by Indian students whose parents have taken up permanent residence off-Reserve. Since 1981, and under the authority of Sections 4(3) of the Canadian Indian Act, the Department of Indian Affairs denies any Treaty educational responsibility for Indian students whose parents have left the Indian reserve permanently. "Permanent" being defined as being off of the Reserve for a continuous period of 12 months. Some Provincial schools offer special classes related to Indian culture, but most do not. In the past, the Provincial educational authorities have taken the position that special programs for Indian children are the responsibility of the Federal Government, and are to be paid for as an additional cost to the normal tuition fee. More recently, 1989, Saskatchewan Education has adopted a Native Education Policy that is intended to address the needs of all students of aboriginal ancestry who attend Provincial schools.

In the late 1940's the Government of Canada intensified its assimilationist Indian Education Policy. Under the 1948 "Plan to Liquidate Canada's Indian Problem Within 25 years", the Department of Indian Affairs launched an intensive program to promote the education of Indian children in Provincial schools. Under this scheme, tuition agreements or joint school agreements were reached between the Department of Indian Affairs and the Provincial authorities. These arrangements did not allow for participation of Indian people in decision-making about education. The agreements provided for the sharing of operating costs between the Federal and Provincial educational authorities on a per capita basis. Another form of educational agreement promoted during this period, which excluded Indian's from participation, was the Joint Capital Agreement. Under joint capital agreements, the cost of the construction of additional provincial school facilities to accommodate Indian students could be shared on a per capita basis as well between the Federal and Provincial governments. Normally the joint capital agreements were amortized over a 25 year period and committed Indian parents and Band Governments to sending their children to a Provincial school, whether they wanted them to go there or not.

Following the adoption of the National Indian Brotherhood's 1972 statement on Indian Control of Indian Education, by the Canadian Government, in 1973, the Department of Indian Affairs began to accede to Indian demands for increased educational involvement through local control and parental authority over the education of their children. One of the steps taken by Indian Affairs was to enter into financial agreements with Band Governments which changed the relationship between the Bands and Provincial School Divisions. Under the Indian Affairs-Band Government agreements the Department of Indian Affairs decentralized the Provincial tuition funds to the Band and the Band, in turn, entered into direct negotiations with the Provincial School Division for the education of their children in a Provincial school. Initially the Provincial

School Division authorities insisted that these be tripartite agreements, with the Minister being a guarantor of the Bands financial obligations to the School Division. In subsequent years, as the Provincial authorities became more comfortable about dealing directly with Band Governments, the agreements became a direct working contract between the Bands and the School Divisions. The transfer of educational funds is often, however, the only contact between the Band and the School Division. Participation at Provincial Boards of Education meetings is minimal. Indian representation on these Boards is also minimal.

Although the situation appears to be changing for the better, a number of grievances have arisen concerning Federal - Provincial educational services and arrangements. The focus of Indian concern has centered on the lack of Indian input, consultation and control. These concerns were identified in the 1984 Parliamentary Committee Report chaired by Roland Penner, M.P. The contents of this report were the result of meetings conducted across Canada between the Parliamentary Committee and Indian organizations. On the subject of education, the Penner Report noted Indian criticism of long term tuition agreements between Indian Affairs and the Provinces. Concern was expressed that Indians had very little control in cases where funding is provided directly to Provincial School Boards and that most of these lump sum payments do not provide for accountability to Indian Bands and parents. It documented the disproportionately higher per student education payments paid to provincially operated schools than to Band operated schools. The report showed that despite Governmental assurances that education decisions and action would only to be taken "with Indian approval", Indian participation in educational negotiations is frequently overruled by Federal or Provincial decisions. Also, the Penner Report noted that there was an absence of adequate representation on the Provincial education boards and advisory committees. (Penner, 1983:27-29)

On the issue of control, the Penner Report said that Bands collectively should be able to assign, or delegate, some of their educational authority to an Indian controlled institution such as a Tribal Council, or to enter into agreements with Provincial education systems. The major argument of the Report was that there needed to be a transfer of authority and that:

> Central to this process is the principle that it is the Indian First Nation that should have the jurisdiction over and responsibility for education. (ibid: 30)

The fifth area of Federal involvement in Indian education is Band operated schools. In Saskatchewan, 59 Bands now administer their own on-reserve education programs. The current arrangements involve the Band signing a financial agreement with the Department of Indian Affairs to secure the education funds required. These contractual arrangements go under several different names - Contribution Arrangements/Agreements, Transfer Agreements, Alternate Funding Arrangements, and Flexible Transfer Payments. A common feature of each type of arrangement, however, is that the terms and conditions are determined by the Department of Indian Affairs, based on authority provided under the Indian Act, the Financial Administration Act and Treasury Board Minutes. Financial and program accountability is directed outward from the Band and in the case of education specifically, the Saskatchewan Education Act is imposed on the Band as a condition for receiving the funds and administering the education program. Under this form of external domination, the Band assumes responsibility for the establishment of a School Committee or Board of Education, the signing of employment contracts with their education staff, and the implementation of all curriculum, the maintenance and operation of the physical facilities, student supplies and transportation, student counselling and the administration of all accounts.

For the smaller Band controlled schools, Indian Affairs may continue to conduct an annual review of the curriculum, supervise the teachers, purchase the necessary books and provide some student counselling services. Many of the larger Band controlled schools employ their own Education Directors and counselling support to provide these services. The Department of Indian Affairs claims that it does not review too closely what goes on in the Band administered schools. Provided the funds are being used for the agreed upon educational purposes, Indian Affairs does not get involved in the daily operations of a band controlled school. They maintain a non-participatory external control position only.

Contribution Arrangements (CAD) require the Band to develop program operating and financial plans, which Indian Affairs must ratify before the funds will be given to the Band. The CAD also dictates that the Band must maintain financial records and provide regular financial reports to the Department and that all of this must be completed according to Indian Affairs criteria. If the Band does not live up to the terms and conditions of the agreement the Department can unilaterally terminate the arrangement. Under the terms of the CAD, the Band may establish a School Committee, or Board of Education. Usually the committee is appointed by the Band Government, rather than elected. The powers of the Education Committees vary from Band to Band depending on the amount of authority the Band Government is willing to give to them. The committees' powers and duties are usually specified by the Band Government. Sometimes the committees' job is outlined separately and may be nominal and advisory. Committees may have quite extensive delegated responsibilities. They may represent the Band in all educational matters, including entering into financial agreements and being accountable for the expenditure of funds.

Indian Affairs, usually ensures that teachers enter into an employer/employee agreement with the Band, which covers the terms and conditions of their employment, remuneration, work periods, employee benefits and general working conditions. Salary grids are established as well as employment classification. Teacher aide's salaries and benefits are also defined and established.

Finally, some Bands use an "Education Administration Manual", which is a comprehensive set of guidelines, similar to those used by Provincial School Districts. It covers the establishment of a board or committee of education, the methods by which they are established, meetings of the board, and outlines in detail the duties and powers of the Board. The guidelines also deal with programming, duties of the pupils, discipline procedures, attendance, school holidays, school staff, administrative policies, establishment of employee selection committees, duties of the Principal, caretaker services, transportation agreements and budgetary matters (Onion Lake, 1990; Little Pine, 1991).

These guidelines vary from one Band controlled school to the next. The specificity of the provisions also vary from Band to Band. Generally, the fundamental nature of the guidelines remains the same. For example, the duties and powers of one Band Board of Education may include the administration of the school system, school maintenance, hiring of teachers and staff, student selection, approval of the curriculum, transportation arrangements, financial budgeting and reporting, determining the days of school operation, the appointment of an education coordinator, to the approval of religious instruction, resolving of disputes, the making of recommendations to the Band Council as to what agreements to enter into and authorizing the use of school facilities for cultural and other activities.

In 1973, E. R. Daniels described this situation:

> The status achieved by the Indian community approximates much more closely than at any other time that of the non-Indian community in the area of the provision of educational services to their children.... (and that) the status of the Indian community is such that it seems to be able to enjoy basically the same degree of participation in the education of its children as the non-Indian community enjoys in the education of their youngsters (1973: 225-226; brackets added).

These limitations became more rigid as the Department of Indians Affairs used all its powers to ensure that it retained control over Indian education. Following the 1973 acceptance of the Indian Control philosophy, Indian Affairs unilaterally created and introduced regulations and guidelines defining local control within the context of Federal financial and jurisdictional priorities. Margaret Ward argues that the concept of local control was used by Indian Affairs to mean the joint management of education, with Indian Affairs retaining the right to veto any initiatives put forward by Band Governments (1988: 238). Ward explains that "the provisions of educational services to Indians continued to be authorized by virtue of Sections 114 through 123 of the Indian Act and by the subordinate legislation..." (ibid:253) and reflected the `colonial mentality' of the Department of Indian Affairs (ibid: 268).

Daniels also noted, however, that all of this was limited by the financial constraints of the Treasury Board (ibid).

Policy Objectives of the Department of Indian Affairs

Indian control of Indian education, as defined by Indian organizations, is significantly different from what the Department of Indian Affairs says it is. Indian Affairs says there is a large gap between expectations and reality. This was evident in their response to the National Indian Brotherhood's proposed revisions to the education section of the Indian Act in 1977. The main thrust of the proposed revisions related to a system of charters under which the Minister would be empowered by Parliament to delegate all of his powers and jurisdiction to Band Councils, with respect to the provision of educational services to Band members living both on and off Reserve (Ward,1988:136-147).

In 1985 the Federation of Saskatchewan Indian Nations attempted, through a joint committee approach with the Federal Departments of Justice and Indian Affairs, to add a subsection to Sections 114 of the Indian Act which would allow the Minister of Indian Affairs to recognize Band Governments as the sole authority for on-Reserve Indian education (SICC,1985:2).

The Department was concerned that this proposed amendment would expand the responsibilities of the Minister and the obligations of the Federal Government for funding, while at the same time requiring the Minister to delegate that responsibility when Band Governments assumed control of educational programming and services. Although the principles and objectives of the policy proposals of the National Indian Brotherhood were accepted in principle by the Minister of Indian Affairs, in 1973, the Department took the position that there is no direct legal basis in the Indian Act to transfer educational programs from the control of the Minister to Band Governments (Indian Affairs, 1982; Annex B:6). "Legally", according to D. Longboat, "control is concentrated in one person: the Minister of Indian Affairs and Northern Development. There is no right of appeal or review" (1987: 33).

Indian Affairs was to retain total control over Indian education. The only modification Indian Affairs made was to enter into education agreements with Bands they decided were capable of administering their own education program. The terms and conditions of these administrative agreements specify the procedures for budgeting, insist on compliance with accounting practices consistent with the Federal

Financial Administration Act, impose the Saskatchewan Education Act and Regulations, dictate programming, financial and accounting procedures, specify relationships between the Band and the Minister, specify Band jurisdiction and specify conditions for amending or terminating the agreements (Indian Affairs, ibid.: 6 - 7).

Complete Indian educational autonomy, as envisaged by the N.I.B., cannot be achieved over the education of their children. It is impossible, given the existing Constitutional, Legislative and Regulatory Regime in Canada. Parliament, the Minister of Indian Affairs and the Department of Indian Affairs still maintain ultimate jurisdiction over Indian education.

Education, like all other areas of Indian life, is administratively controlled by the Government of Canada through the authority of the Indian Act. Richard Bartlett sums up the pervasive power of the Indian Act and the socio-economic position of Indians in Canadian society:

> The Indian Act of Canada is the principle instrument through which federal jurisdictions over Indians and native people has been exercised during the last one hundred years. It dictates the manner in which Indian reserves and treaties are administered by the Department of Indian Affairs and the limited control exercised by bands and band councils. Insofar as statistics can reveal a style of life, they indicate that these people are by a the most economically impoverished and socially disadvantaged group in Canada (1988:1).

Provincial Educational Powers and Services

A review of the Saskatchewan educational system is necessary since Section 93 of the Constitution Act, 1867, grants the Province constitutional jurisdiction and responsibility over education. It is this system to which the Federal Government must accommodate in their provision of education to Indians. Through the Minister, Section 69 of the Indian Act is used to impose Provincial standards and regulations regarding programs of study, curriculum, teacher qualifications, educational standards and services and administrative practices on the various Indian controlled and Federal schools.

For Band controlled schools in Saskatchewan, this is an impossible condition with which to contend. The Saskatchewan Education Act applies to any school, school system, school district or larger school unit under the jurisdiction of the Province (Education Act, R.S.S.,1983). The Education Act establishes the Department of Education, Minister of Education, Education Council, Educational Boundaries Commission, School Divisions and Board of Education for each Division; authorizes the establishment of joint Boards, School Districts and local School Advisory Committees; deals with pupils, programs and services; covers, organization and management of schools and staff, and deals with all educational programs. The Act also covers teachers qualifications, functions, duties, collective bargaining agreements, establishes a Teacher's Classification Board and a Board of Teacher Education and Certification. Finally, the Act deals with financial matters concerning revenue and property taxation, grants, borrowing procedures and the vesting of school property.

It is the primary responsibility of the Saskatchewan Department of Education and the responsible Minister to produce, acquire, and distribute educational programs and materials and establish policy guidelines and directives. It is, however, the school boards, district boards and trustees in each school division, who deliver and administer the educational services and programs. Structurally, the education system in Saskatchewan operates from top to bottom, with the legislature establishing policies and the locally elected authorities providing and administering the programs in conformity with the centrally created policy.

A closer examination of the respective powers and duties of the Department of Education, regarding the local school boards explains more clearly the division of educational responsibility. The Minister of Education has the authority to advise on the management of schools and school divisions; establish courses of study; deal with educational goals and objectives; supply textbooks, equipment and facilities; deal with the classification, certification and training of teachers; appoint advisory boards or individuals to inquire into complaints; establish special schools for particular courses of instruction; collect fees for attending special programs or obtaining of certification; deal with time of school attendance and deal with school boundaries.

Under this authority and the authority of the Act, an Education

Council was established to deal with matters related to the aims and objectives of the educational system, to advise the Minister and conduct studies related to education in Saskatchewan. An Educational Boundaries Commission was also established to consider matters related to the population distribution and boundaries of the school divisions, and subdivisions.

In Saskatchewan, the Education Act states that the Province shall be divided into school divisions or sub divisions, whether they are public, separate or high school. Each division has its own name, boundaries, Board of Education, establishes a method of electing the Board, becomes incorporated and has vested to it all assets and liabilities related to education. The Act dictates what the composition of the Board of Education will be, outlines the circumstances under which a member may hold office, describes how a member might be disqualified, sets the minimum number of Board meetings to be held, states that a majority of members constitutes a quorum and that a tie vote constitutes a vote. The Act also states that the meetings are open to the public and that Board members are to be paid for their services.

The duties and powers of the Board of Education are great. The Boards, and their professional staff, manage and supervise all schools within their division, establish administrative procedures, hire principals and teachers, deal with all matters related to students, determine classroom and school needs, define school district boundaries within the division, approve courses and programs of instruction, regulate school transportation, provide for the office and staff of the Board, administer Board funds, regulate the use of school facilities, prepare all necessary reports and records, furnish the necessary supplies, authorize expenditures, enter into agreements with other Boards and municipalities, invest funds, close schools, prepare administration manuals, submit annual estimates of revenue and expenditures, fix tax rates and borrow money.

Boards of Education govern themselves according to the Saskatchewan Education Act, R.S.S. 1983. There is a Chairman of the Board in each Division, who, in addition to responsibility for general supervision, certifies all acounts, countersigns all cheques, executes agreements and presides at Board meetings. Each Division also has a

Director of Education and either a Secretary, Treasurer or Superintendent of Administration. The Director of Education prepares the necessary reports, ensures that schools are conducted in accordance with the Provincial Education Act, exercises general supervision, provides educational leadership and liaises with the Board, teachers and staff of the Division. The Secretary Treasurer of the School Division keeps all business records, manages all financial matters and must be bonded.

In the case where a School Division is more than 1,295 square kilometers in area, the Minister may establish a sub-division to be managed under the direction of the School Division Board of Education. It is interesting to note that in the matter of school sub-divisions, the Minister may under Section 27(2) of the Saskatchewan Education Act:

> (b) create a sub-division, consisting of one or more Indian Reserves where an agreement has been entered into with the Government of Canada under Section 114 of the Indian Act;
>
> (c) transfer any sub-division created under subsection (b) from one division to another where the Council or Councils of the Band or Bands of Indians in the sub-division and the divisions to be affected, agree to the transfer.

Under Section 27(2.1) this new sub-division can then elect one Band member to the Board of Education of the Division. Some Bands in Saskatchewan have used Section 27(2) and become part of a school sub-division in order to participate in Provincial Boards of Education responsible for the education of Indian children in off-Reserve schools.

School Divisions may be further divided into School Districts, in situations where the Division does not have a city, but has schools in a municipality where the students attend. A municipality may constitute a School District. Each District has an elected Board of Trustees whose duties are mainly advisory and supervisory, with the exception of those responsibilities that are delegated to them by the Board of Education for the School Division.

Local School Advisory Committees, as stipulated in the Act, are established in areas where there are no School Districts. Their powers are limited and their role is mainly advisory.

The operating budgets for each Board of Education are collected from property tax assessments within the boundaries of each School Division. Based on annual budget estimates, the Board fixes the tax rate to be levied, and the municipality is responsible for levying and collecting the required property tax. The Provincial Department of Education supports the Boards of Education through Provincial grants.

Provincial Indian Education Policy

The Indian Act (R.S.C. 1985, c.I-5) grants the Department of Indian Affairs full authority over Indian education in Canada(see above). Without imposing on the Federal jurisdictions for Indian education, the Saskatchewan Government has taken several actions to address the educational needs of Indian and Metis students. The Saskatchewan Government avoided any jurisdictional conflicts by the adoption of the following definition in the 1985 "Reaching Out" report on Indians and Metis education:

> The policy and programs set out in this statement refer only to Indian and Metis children who are enrolled in schools under the jurisdiction of the Province of Saskatchewan. It is not to be implied that the Government of Saskatchewan is in any way assuming the legal and historical obligations that the Government of Canada has to aboriginal people (Tusa, 1985: 52).

This delineation of responsibility has remained in place and was reaffirmed by the Saskatchewan Minister of Education in a 1989 policy statement on Indian and Metis education:

> Nothing in the policy or program initiatives of Saskatchewan Education assumes or diminishes in any way the legal and historical obligations that the Government of Canada has to Aboriginal peoples (Hepworth, 1989: 6).

The Saskatchewan Indian Education Acts

The remainder of this chapter will describe the Indian education legislation that was created by the Indian Governments of Saskatchewan. This examination is presented within the context of the historical, constitutional, legal and administrative relationships that developed in Canada with respect to the delivery of education to Indian people.

In the late 1970's, the Federation of Saskatchewan Indian Nations decided to address these jurisdictional questions concomitant with other actions to have their inherent rights recognized in international and Canadian law. In 1980, an Interim Saskatchewan Indian Education Commission was established. The mandate of the Commission was to research and develop an Indian Education Act that would codify Indian Government jurisdiction over the education of Indian children (J. Everett, 1989).

A draft of the proposed Indian Education Act was presented to the Legislative Assembly of the Federation of Saskatchewan Indian Nations, in May of 1984. The proposed Act was rejected by the Indian leadership, on the grounds that it proposed to centralize power and create a bureacracy that would not be accountable to Indian people at the Band level (ibid.). Another criticism of the ill-fated Act was that the general Band membership of all 68 Bands were not aware of the contents or implications of the Act (ibid.).

In August of 1984, the ten Meadow Lake District Chiefs decided to proceed with the creation and establishment of Indian education legislation. Their law was to be applicable to the Band and District jurisdictions and be based on two fundamental principles of Indian Government: the paramountcy and sovereignty of the Bands(Everett, 1989). In the Meadow Lake case, the process of creating Indian education law emphasized that the building of the Act must start from the community level. The philosophy behind the plan was that nothing would be proposed as Indian education law until discussions about it had been held with the Indian Government and Band membership in all ten communities (ibid.). Another condition of the Meadow Lake process was that it was to be a decentralized structure, with the ultimate power over Indian education to be within the jurisdiction of each individual Band (ibid.). In September, 1984, a team of MLDC employees and one consultant was put together to carry out the work (ibid.).

The first series of community meetings, in the fall of 1984, were oriented towards communication and needs identification only. The team spent most their time discussing the Treaties, the Principles of Indian Government, Indian Control of Indian Education, the Canadian Indian Act and the Provincial Education Act. A central theme of these discussions was the issue of jurisdiction: "will the Canadian and Saskatchewan Governments recognize Indian Education law?"

By December, 1984, an understanding had been reached between the MLDC education team and the ten constituent Bands, and the team was told to create a first draft of a Band Indian Education Act. The Bands had decided that before any discussions could be held with the Federal and Provincial Governments, over educational jurisdiction, they needed to come to an internal agreement about how their jurisdiction would be defined. The first draft of a Band Indian Education Act was prepared for discussions in December, 1984 (ibid.).

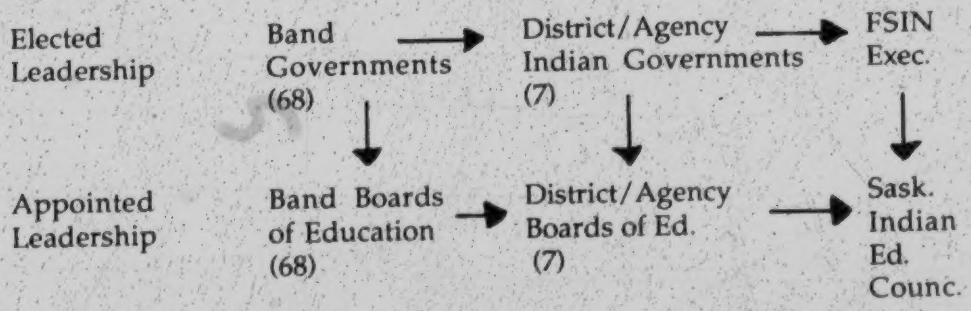
Between January and April, 1985, the MLDC team met at least twice with each of the ten Bands in a workshop. The team spent an average of five days with each Band, as well as being available for follow-up meetings when requested by the individual Bands (E. Sundown, 1989). By May, 1985, eight drafts of the Band Indian Education Act had been written, and the first draft of the District Chiefs Indian Education Act had been prepared (ibid.).

The Executive of the Federation of Saskatchewan Indian Nations (FSIN) was aware of the success of the MLDC process and in April, 1985, they initiated a similar process to be conducted throughout the rest of Saskatchewan (S. Sanderson, 1989). The Federation also began the research to create an Indian Education Act that would apply specifically to its jurisdiction (ibid.).

The key to the success of this process of Indian Government legislative development was the ongoing commitment to the principles of Indian Government, which stressed that the Band was paramount and sovereign. This commitment dictated the pace of development and implementation of the three Indian Education Acts that grew from it (ibid.).

Figure 1.0 typifies the flow of authority and jurisdiction, as it was conceived of by the Indian Governments of Saskatchewan in 1985. Under this arrangement, all Indian educational questions and decisions were to originate from the Bands. Also, if any initiatives were proposed by the District or Federation educational offices, which would have an impact on a Band's jurisdiction, authorization would have to be secured from the Band(s) before the initiative could be acted on. Simply stated, control over jurisdiction started with the Band, and all education decisions had to be accounted for to the Band (ibid.).

Figure 1.0 Flow of Authority and Jurisdiction (1985)


Elected Leadership
Band Governments (68)
District/Agency Indian Governments (7)
FSIN Exec.
Appointed Leadership
Band Boards of Education (68)
District/Agency Boards of Ed. (7)
Sask. Indian Ed. Counc.

"Overall control of the internal and external affairs of the Band" were structured so that Band Governments had unilateral powers, while the District/Agency and FSIN jurisdictions would have delegated or shared authority only for Indian education (J. Everett, 1989).

By 1986, 17 drafts of the Band Indian Education Act, eight drafts of the District/Agency Act and eight drafts of the Federation's Indian Education Act had been completed and Indian Governments were moving toward ratification of Indian education law. What had started as a process to articulate Indian education legislation, exclusive of any involvement by the Federal and Provincial Governments, began to become more concrete and acceptable to some Indian Governments. The Meadow Lake District Chief's ratified their Education Act in April, 1986, the Joseph Bighead Band ratified its Indian Education Act on January 8, 1987, and the FSIN Legislative Assembly, at Third Reading, approved their education law on January 28, 1987 (ibid.).

What the Saskatchewan Indian Governments had done was create a model for Indian education that was wholly community based. In order to achieve this decentralized authority they had to construct and approve three separate, but integrated, instruments of Indian law; law that clearly defined the spheres of jurisdiction of each authority, while at the same time acknowledging and promoting the paramountcy and sovereignty of all Indian Bands in Saskatchewan.

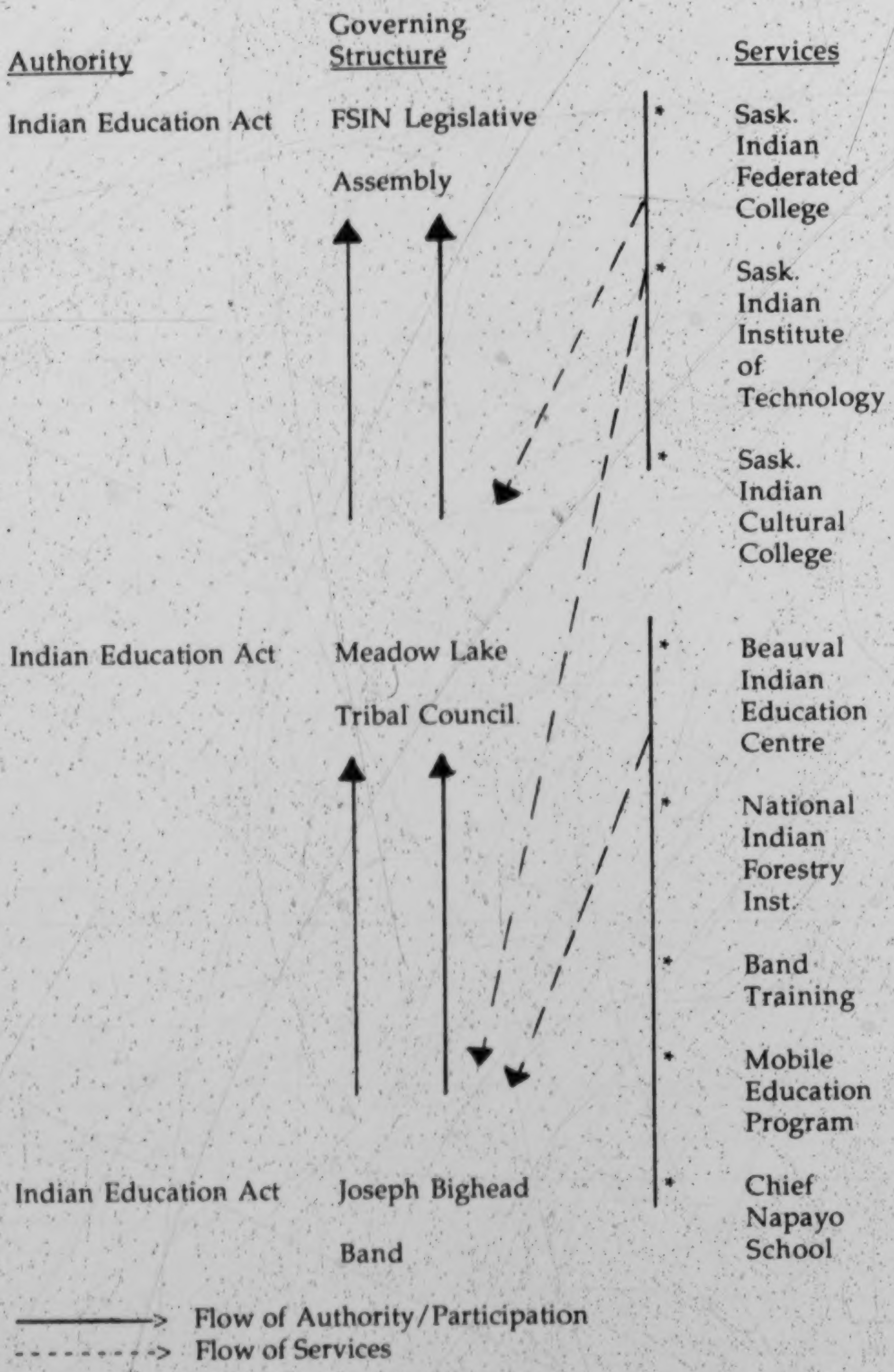
The three Indian Government Education Acts are intended to govern the delivery of all educational services at the Band, District/Agency and Federation of Saskatchewan Indian Nations (FSIN) levels. The provisions in each Act are almost identical, with minor changes in terminology to accommodate the distinct jurisdictional authorities of either the Band, District /Agency or FSIN. Under the model that had evolved by January, 1987, the jurisdictional boundaries and overlapping responsibilities for Indian education began to take on a concrete form under Indian Government. The Joseph Bighead Band - Meadow Lake Tribal Council-FSIN educational relationship is represented in Figure 2.0. A major feature of this arrangement is that neither the Federal Department of Indian Affairs, nor the Provincial Department of Education show up as participants in this process. It was a process carried out entirely within the self-defined jurisdiction of Indian Government.

Although the social and political intent of the three Saskatchewan Indian Education Acts is to articulate the self - determining education powers of Indian Governments, the format of the Acts is similar to that constructed in Canadian Federal and Provincial law.

The overriding principles of each Act are that in all matters the Band is paramount and sovereign and that the Indian trust relationship with the Crown will be maintained (S. 3 c.). Also, the Acts were not to be instituted pursuant to any Federal or Provincial legislation. They were to be enacted with the sole approval of the Indian Governments of Saskatchewan.

Each Band, District/Agency and FSIN Education Act has an interpretation section (S.2.). The purpose of each Act is to establish an education system to serve the educational needs of the Bands that is consistent with the spirit and intent of the Treaties. The District/Agency and FSIN Education Act must be consistent with the Band Education Acts (S.3.). Each order of Indian Government is to provide its own facilities,

Figure 2.0 Authority, Participation and Services


Authority
Governing Structure
Services
Indian Education Act
FSIN Legislative Assembly
* Sask. Indian Federated College
* Sask. Indian Institute of Technology
* Sask. Indian Cultural College
Indian Education Act
Meadow Lake Tribal Council
* Beauval Indian Education Centre
* National Indian Forestry Inst.
* Band Training
* Mobile Education Program
Indian Education Act
Joseph Bighead Band
* Chief Napayo School
———> Flow of Authority/Participation
- - - - - - - -> Flow of Services

programs and procedures, as well as the equipment and personnel necessary to manage an education system, with the provision that at no time will the District/Agency or FSIN Education Acts supercede the authority and jurisdiction of Band education law (S.3(c), (d)). In each instance, the Band has ultimate jurisdiction over educational matters and the District/Agency and FSIN legislation only governs those matters that are delegated to them by the Band (S.3(i)).

The Band and District Education Acts establish a Board of Education, and the FSIN Education Act establishes an Education Council (S.4), and prescribes how the Board or Council will be appointed (S.5); quorum and voting standards (S. 6): the term of office for each member (S.7); and what happens when a member vacates office (S.8, S.9). Each Act also establishes how and when actions of the Board will be valid (S.10); authorizes the appointment of a chairman and vice chairman (S.11); establishes remuneration for Board members (S.12); determines how meetings will be held (S.13); authorizes the appointment of senior management and appointments to policy boards (S.14, S.15); and defines the powers and duties of the Board or Council (S.16, S.17). The three Acts conclude by covering such matters as liability of the Board or Council (S.18); payment of taxation (S.19); amending procedures (S.20); and when the legislation comes into effect (S.21).

A review of the historical and constitutional circumstances that surrounds the relationship between the Crown, the Indians, and the Treaties has already been discussed in some detail. The question that remains is how do the Indian Education Acts fit within the context of those circumstances?

The position expressed by Indian people generally, and the FSIN in particular, is that **there are certain inherent aspects of Indian Government** over which they have exclusive jurisdiction. According to this view, **these rights were never surrendered by the signing of the Treaties, but were endorsed by them.** Indian Governments argue that **the Indians' aboriginal or customary rights over the education of their children were never surrendered by entering into the Treaties with the Crown.** Further, they assert that the Treaties recognized that in return for the release of their aboriginal interest in the land, **the Crown agreed to assist Indians in the education of their children, not to terminate the Indian responsibility**

to educate them (E. Sundown, 1990; also see page 77).

This Indian perception of Indian education is not unique to the 1980's. Miller argues that:

> To them(Indians) the treaties were intended to be pacts of friendship, peace, and mutual support; they did not constitute the abandonment of their rights and interests (1989: 165, brackets and underlining added).

Using information from the late 1840's, about the Ojibwa, Miller describes the Indian position on education:

> ...their reasons for wanting these schools were different from the governments: they wished to acquire the Euro-Canadians' learning in order to survive, but they had no wish to assimilate (ibid.: 106).

and the Indians

> made it clear that they wanted only schooling, not a fundamental change in their way of life (ibid.:107).

The question then is whether there is an aboriginal right to education which continues to be exclusively Indian in Canada. As discussed above, the doctrine of aboriginal rights arose when a colonizing power assumed sovereignty, through "discovery", over already occupied Indian lands. The aboriginal rights doctrine claims that the inherent rights of the Indian people are not affected by European colonization. The colonizing power can, however, by asserting its sovereignty interfere with and abrogate those rights.

Determining the survival of pre-existing aboriginal rights is given added importance by the Constitution Act of 1982, Section 35(1), which recognizes and affirms the "existing aboriginal and Treaty rights." This constitutional provision further recognizes that "any laws inconsistent with these rights are of no force and effect to the extent of their inconsistency" (Pentney, 1987: 129: also, pp. 129 - 137). This means that the continued existence of aboriginal rights, or sovereignty, over Indian education might place aboriginal rights beyond the scope of Federal and Provincial law, unless the Constitution is amended to state otherwise (Clark, 1990: 191 - 204).

W.B. Henderson says that the aboriginal right to the land and resources remain in place, unless either a formal Treaty or purchase has taken place, or legislation has been passed that extinguishes the aboriginal right (1985: 5). He concludes that:

> According to the doctrine of aboriginal rights ... public sovereignty is conceded to the European colonizing nation; the private rights which arose under the previous sovereignty of the aboriginal nations are preserved and, if not subsequently overtaken by the new public law, remain capable of recognition (ibid.: 6: also B. Slattery, 1983: 39 - 45).

He says the aboriginal right of Indians over Indian education remains in place unless that right is specifically assumed by the powers of the Government of Canada.

Conclusion

It is generally agreed by the Canadian Courts that only the Federal Government can enact legislation abrogating the aboriginal and Treaty rights of Indians (Canada vs. Ontario, 1910). As has been described above, the Federal Government has assumed authority over matters of Indian education through its constitutional jurisdiction over Indians and their lands, the Treaty promises, expressed in the provisions of the Indian Act. To this extent, they have claimed jurisdiction over the right of Indians to control the education of their children, as Indians. This hegemony of the Federal Government over Indians is typical of the asymmetrical relations between dominant and subordinate cultures in a colonial relationship.

The steps taken by the Canadian Government in exercising this power, were to establish an administrative system to deliver education services to status Indians living on Reserves, whose children attend school both on and off Reserve. This was, and is, accomplished through the authority of the Minister of Indian Affairs and the Indian Act, with Treasury Board and Cabinet approval.

This situation makes the power of Indian Governments to legislate over matters of Indian education unsure. It also brings into question whether Indian Governments can implement and enforce the provisions of any of the three Indian Education Acts of Saskatchewan.

The Indian Education Acts propose to govern all aspects of Indian education, both on and off Reserve. By 1987, Saskatchewan Indian Governments were claiming sovereignty over the education of their children. Historically, the Federal Government and the Courts have rejected Indian sovereignty and any Indian Government exercise of sovereign powers, especially if those powers were perceived as conflicting with the rights of the general Canadian public (as carried by the three levels of Government). The Government of Canada has demonstrated that it will only approve of those Indian rights which are consistent with their policies. The Federal Governments domination of the asymmetrical relationship has not changed for 125 years. The political power of Canada continues to dominate the social, political, legal and civil rights of Canadian Indians.

When the National Indian Brotherhood and other Indian organizations sought to have the educational provisions of the Indian Act changed, so that Ministerial powers could be transferred to Indian control, this was rejected by the Department of Indian Affairs as being legally and financially impractical. The negative response of the Canadian Government has not stopped Saskatchewan Indian Governments from making the political decision to proceed with the codification of their own laws, to regulate both their internal affairs and their external relations with Canada.

Indian resistance to the structures of domination are grounded in their beliefs about aboriginal rights, in their inherent right to self-determination, to reproduce Indian culture according to their own values and strategies, and their Treaties with the Crown. By proceeding with building of their own education law, Indian Governments have entered into a political struggle to change their hegemonic asymmetrical relationship with Canada as an internal colony. Henry Giroux argues that this kind of relationship "contains the possibility of galvanizing collective political struggle around the issues of power and social determination" (1983: 111). The resistance of the Joseph Bighead Band to the exercise of power by the Federal Government over their lives, is a resistance to their present dependent social, legal and economic situation. It is resistance to being an internal colony of Canada.

The following chapter will describe the attempts of the Joseph Bighead Band to change their fundamental relationship with Canada, and become self-determining in the area of Indian education.

CHAPTER 4.

JOSEPH BIGHEAD: RESISTANCE TO CONTAINMENT

This chapter will describe some of the historical and contemporary relations between the Joseph Bighead Band and Canada, and focus on the Band's efforts to change the relationship. Two factors will be taken into account. One, the social and political steps taken, which will concentrate on the social, legal and political relationship. The second important issue is the ideological framework. This research indicates that the ideology and beliefs held by the members of the Band are an essential social support system to the more overt political actions of the Band Government to create change.

The issue of self-determination is at the centre of the confrontations that have taken place between the Joseph Bighead Band and Canada, as represented by the Department of Indian Affairs. This chapter will describe the geography, social and economic conditions of the Band, and how, within these environments, the Joseph Bighead Band Cree have individually and collectively opposed their subordinate relationship in Canada.

This history of the Joseph Bighead Band's relations with Canada, includes examples of the asymmetrical conditions described in chapters two and three. Those chapters described the processes, structures and justifications used by European nations and Canada to dominate their relations with the aboriginal populations. Chapter three specifically outlined the structures put in place by the superordinate Federal and Provincial powers in Canada to create a system of internal colonialism, and some of the measures taken by Saskatchewan Indian Governments to change the relationship.

Michael Hechter's model of internal colonialism (1975), and James Scott's model of resistance (1985) are used in this chapter to discuss the asymmetrical relations between the Joseph Bighead Band and Canada, and to explain the structural and ideological forms of resistance employed by the Band.

History and Demography

According to R. W. Dunning's classification of Canadian Indian Reserves, Joseph Bighead is a "Type B" Band (1964). The most prominent festures of a Type B Indian community are that they are closely linked to the national economy, they are close to Euro-Canadian population centres and their internal institutions (education, health, social services and governance) are patterned after those of the dominant culture.

The Joseph Bighead Band is a Cree, Treaty #6 Band, located in the parkland region of central north-west Saskatchewan. The Reserve is 11,617 acres (18.5 sq. mi.) in area and the total Registered Band population in 1990 was 504. Of the 504 Registered to the Band, 312 Band members, as well as one Bill C-31 and 76 members Registered to other Bands live on the Joseph Bighead Reserve, for a total of 389. There are also 27 non-Indians living on-Reserve. Approximately 78% of the Band's population lives on-Reserve and 52% (202) are under the age of 15 (INAC, Lands, Reserves and Trusts, 1990).

Archival resources indicate that the Joseph Bighead Band had its first contact with the Treaty Commissioners in 1876. The archival documents refer to all of the Cree of that area as the `Indians of Big Island Lake', who in later years became specifically identified as the Makwa Sahgaiehcan, Waterhen Lake, Ministikwan and Joseph Bighead Bands. Alexander Morris reported, in 1876, that "he informed the Indians of Big Island Lake that they would be admitted to Treaty." (RG 10, v. 3636, f. 6743). However, the Joseph Bighead Band adhesion to Treaty #6 did not happen until June 25, 1913 (P.C. 2760).

The original Band population was 27 people, and according to the 128 acre/person formula, the Reserve was to be 3,456 acres in size (INAC Pay List, 1913). By the time the Reserve was actually established on February 4, 1919, the Band population had grown to 89 and the Reserve area was finalized at 11,616.9 acres (O/C, P. C. 238).

During the June, 1913, discussions leading up to the signing of the Treaty, Canadian power was unilaterally imposed on the Joseph Bighead Band. Throughout the negotiations, Chief Joseph Bighead made several demands that the Treaty Commissioner, W. J. Chisholm, refused to grant. Chief Bighead demanded that there be no restrictions on hunting and fishing in their traditional territories around Lac des Isles (Big Island Lake). Chisholm's response was to quote from Treaty #6:

> Her Majesty further agrees with said Indians,

> that they, the said Indians, shall have the right to pursue their avocation of hunting and fishing throughout the tract surrendered as hereinbefore described, subject to such regulations as may from time be made by Her Government of her Dominion of Canada (RG 10, Black 429511, v. 4072: 5, underlining in original).

The power of Canada is evident in this section of the Treaty #6, and it is a curious historical fact that Chisholm did not cite the rest of this section of the Treaty. In the Treaty text, the sentence continues:

> ... and saving and excepting such tracts as may from time to time be required or taken up for settlement, mining, lumbering or other purposes by her said Government of the Dominion of Canada, or by any of her subjects thereof, duly authorized therefore, by the said Government (Treaty #6, 1876).

The power of Canada over the Treaty making process, and Canada's confidence that it could dictate the terms of the Treaty are evident in the text of the Treaties. Chisholm's judgemental attitude toward the Indians is reflected in his concluding comments about both the Joseph Bighead and Waterhen Lake Cree:

> Moose and fur-bearing animals are still plentiful; and altogether these people make a comfortable livelihood. They have not felt the pinch of poverty, which largely accounts for their present independent attitude, as they do not feel the need for assistance and protection. They are uttely heathen in their notions and ceremonies, and do not want to hear of Christianity or of education, or of anything pertaining to the civilization of the white man. They appear, however, to live happy and moral lives; they are comfortably and suitably clothed; and a fair degree of cleanliness is observed (RG 10, Black 429511, v. 4072: 9).

Following Adhesion to Treaty #6, in 1913, and the establishment of the Joseph Bighead Reserve in 1919, both the Roman Catholic and Anglican Churches established missions on the Reserve. The available archival material indicates that both churches and Indian Affairs got involved in education during the 1920's. The churches arguing over who should be allowed to establish a school, the Department making excuses why they wouldn't support a school, and Chief Napayo's attempt to take matters into his own hands.

In 1925 Bishop Lloyd wrote to Indian Affairs requesting permission to establish an Anglican Day School at Big Island Lake (RG 10 Black, v.6296, f. 626 - 1). Lloyd described the Band as being "largely pagan", but that there were a few Band members who had converted to Anglicanism. Lloyd explained that although for some years the "old men pagans" had resisted the establishment of a school, that many of the younger Band members were in favour of a school being built. His opinion was that although the Band "scattered" during the summer, the school could be operated during the winter for about six months. He said that the Reserve was located on "excellent" farm land, and that although no one was farming, he felt that the semi-annual movement of the Band would stop as soon as hunting, trapping and fishing no longer were the methods of feeding the people. Lloyd's prediction was that it would only be a "few years" before the Band "settled down" and the school could be operated on a year round basis (Lloyd to Scott, Nov. 27, 1925). McLean responded on behalf of the Department by telling Bishop Lloyd that Indian Affairs did not want to establish schools in "isolated" areas unless they could be guaranteed of both their permanency and usefulness. McLean added that the Indian Affairs experience in remote areas was generally one of failure, and he concluded that the Department did not have the finances to support a school for the Joseph Bighead Band at that time (McLean to Lloyd, Dec. 11, 1925).

On December 19, 1925, an Indian Affairs employee noted that the Roman Catholic Church was protesting the establishment of an Anglican Church and school on the Reserve (Ferrier, memo to File, Dec. 19, 1925). Bishop Lloyd, however, continued to request a school to be run by the Anglican Church, and in 1926 he recommended that the summer teacher from either Stanley Mission or Pelican Narrows could be employed as a winter teacher at Big Island lake (Lloyd to Scott, Oct. 9, 1926).

The efforts of both the Anglican and Catholic Churches to establish a school, and the recalcitrance of the Department of Indian Affairs continued for the next few years. The decision about which Church should be involved in education appears to have been settled in 1929, when the Chief of the Band, Napayo, got directly involved. In 1929, Chief Napayo made a direct request to Indian Affairs for a school. ~~He said that~~ the school should be operated by the Roman Catholic Church, because about one-half of the Band members were Catholic, that only a few were Anglican and the rest were "pagan". He explained that he and his Headmen understood the reasons why Indian Affairs was unwilling to support a school financially, but that the Department should at least consider supporting it on a trial basis. Chief Napayo argued that the problems of attendance and family support could be overcome once the school was in place. He strengthened his argument by stating that the Band was prepared to supply the materials and labour necessary to construct the school, at no cost to the Department of Indian Affairs. Chief Napayo went on to say that the Department's only responsibilities would be for the provision of school furniture, educational supplies and the salary for a teacher (Chief Napayo to Deputy Supt., March 25, 1929).

Chief Napayo's request was consistent with the provisions of the Band's Adhesion to Treaty #6, on June 25, 1913, and the educational provisions of Treaty #6 signed at Ft. Pitt and Ft. Carlton in 1876. In fact, the Band was prepared to provide more than the education provisions of the treaty obliged them to do. By offering to provide the materials and the labour for the school, and by making a commitment to ensure attendance, the Joseph Bighead Cree had, in 1929, demonstrated their willingness to participate in a process of culture change that schooling would inevitably bring. The Department of Indian Affairs, however, did not agree with Chief Napayo and refused to authorize the construction of a school, because they "felt" it would not be a success (Mclean to Chief Napayo, April 2, 1929).

In 1930, the Indian Agent for the area was directed by Indian Affairs to visit the Joseph Bighead Band and determine whether or not a school would be successful (Secretary MacKenzie to Agent Turner, Sept. 19, 1930). In his discussions with the Band, Turner was told that the Band had already begun the building of a school to be operated by the Roman

Catholic Church. Turner told the Band to stop the construction, using the argument that the Band had asked the Anglicans for a day school, and that until the question of educational jurisdiction was settled the school could not be built. The Band rejected this line of reasoning and told Turner that they had not asked either the Roman Catholics or the Anglicans for a church on their Reserve, but that they asked both Churches to establish a school. Chief Napayo further explained that Roman Catholic children made up the majority of the school age children and that the building the Band was constructing would be used primarily as a school. Chief Napayo also stated that he and the Band members knew the building would also be used as a Roman Catholic Church, and that they had no objections to this (Turner to Scott, Oct. 13, 1930).

The Department's response was to repeat its argument that it did not believe that a day school would be successful on the Joseph Bighead Reserve and they, therefore, ordered that the building being constructed by the band was to be stopped and left uncompleted. Agent Turner was asked, however, if he thought the Roman Catholic and Anglican Churches would agree to establish a non-denominational school at Big Island Lake (Joseph Bighead), since it did not seem feasible to have two schools on the Reserve. Also, Agent Turner was asked to determine if there was a central location on the Reserve that could be reached by all of the students, if a school was constructed there (Scott to Turner, Oct. 22, 1930).

The Department continued, however, to deny both the Roman Catholic and Anglican Churches permission to establish a day school on the Reserve. The Catholics were told by the Department that they would not allow anyone to put up a building on an Indian Reserve unless they had been granted prior authorization to do so (Scott to Rev. Wallace, Jan. 30, 1931). The Anglican Church was essentially given the same message. The Anglicans were told that the Department did not have the funds to begin any new projects, and that even if they did the Department did not intend to authorize or support a day school on the Joseph Bighead Reserve, under any organization (Scott to Archdeacon Paul, March 18, 1931).

The Roman Catholic Missionary, at Joseph Bighead, decided to open a school in spite of Indian Affairs refusal to authorize it or to provide any financial assistance for the operation of the school (Rev. Gauthier to Agent Turner, Nov. 3, 1931). During late 1931 and into 1932, Reverend Gauthier, the Chief and Headmen and a local Member of Parliament all wrote to the Department of Indian Affairs, requesting that the Joseph Bighead school be recognized and financially supported by the Department (Mackenzie to Turner, Nov, 30, 1931; Davies, M.P., to Acting Superintendent General, May 5, 1932). The Department's response was negative and the request was denied on the grounds that Indian Affairs policy had been ignored, and they would not, therefore, extend educational services to the Band (Williams to Davies, May 11, 1932).

In an Indian Affairs internal memo, Sutherland suggested to Deputy Superintendent McGill that the Department should recognize the Joseph Bighead school, provide the teacher's salary and the funds for the operation of the school. Sutherland said that as Indian Affairs had already granted permission for a Catholic Church to be built on the Reserve, and had leased the Church the land on which the school was located, that the Department should provide financial support for the operation of the school. Sutherland also argued that there was a real need for a school and reminded the Superintendent that the majority of the children were Roman Catholic, and that attendance at the school was very good (Sutherland, Memo to Dr. McGill, Dec. 2, 1932). Davies, the Member of Parliament for the area, continued to intercede on behalf of the Band, but to no avail. The Department's rejection of the Band's education objectives remained consistent. The Department's attitude was that, as the school had been built and was operating against the express orders of the Department, the Joseph Bighead Band would not receive any financial support from the Department (Deputy Superintendent General to Davies, May 20, 1933).

In 1934, the Department asked Indian Agent Hill to report on the progress of the Joseph Bighead School. Hill reported that the school was poorly equipped and that the teacher was not qualified to be teaching. He further said that since the Onion Lake Boarding School was full and that the Joseph Bighead School had the potential to succeed, that he was recommending that the Department upgrade the facilities, and take over the operation of the school (Hill to Acting Secretary MacInnes, Aug. 15, 1934).

After nine years of requests for a school, the Department of Indian Affairs finally decided to support the educational objectives of the Joseph Bighead Band. The Department agreed to pay the teacher's salary, provide the funds for classroom equipment and a fuel supply, and to pay rent for the use of the school building that had been built by the Band (Acting Secretary MacInnes to Agent Hill, Oct. 25, 1934; Mackenzie to Hill, Dec. 28, 1934).

Over the next 15 years a variety of incidents occurred which demonstrate the attitude and power of the Department of Indian Affairs. In 1937, a teacher at the Day School complained to the Department that the children were only being given luncheon meals during five months of the school year. He claimed that the students were not being adequately fed at home and requested that Indian Affairs increase the rations granted to the families (Lirette to Hoey, May 14, 1937). The Department's response was that it was Indian Affairs policy to only support on-Reserve Day Schools where the home conditions were good and where the Indian families were essentially self-sufficient, and could produce their own food supply. The Director of Welfare and Training for Indian Affairs recommended that if these conditions were not being met, that the school should be closed and the students transferred to residential schools (Hoey to Teacher Lirette, June 8, 1937).

The school was not closed in 1937, but events beginning in 1943, led to the closure of the school for six months. In 1943, Indian Agent Cameron reported to the Department that, in his opinion, conditions on the Joseph Bighead Reserve were unsatisfactory. His complaint was that there was too much visiting and dancing going on, and that Indian religion was being practiced. Cameron informed the Department that he had talked to the Band about "curbing immorality", and he advised the Department that he intended to enforce the provisions of the Indian Act, "to its limits", to stop the Band from holding a Sundance that summer (Cameron to Supt. Christianson, May 1, 1943).

In 1944, Christianson visited the Joseph Bighead Reserve and in his report described the school as doing very badly. He wrote that none of the Joseph Bighead Band members, including the children, could speak English, and he recommended that the school should either be closed, or that the teacher should be replaced (Christianson to Indian Affairs, April 5, 1944).

Christianson continued to argue that the teacher should be replaced and recommended that any teacher that was approved by the Roman Catholic Church should be evaluated by the Department of Indian Affairs, before the teacher was employed. His major complaint was that the Catholic Church employed teachers for their missionary capabilities, and not their teaching ability. Christianson stated that Indian Affairs objectives were that the teacher should, in addition to teaching, be capable of working with the whole Band to improve their living conditions. His concluding argument was that the Church was ignoring the overall needs of the Band in favour of gaining converts for the Church (Christianson to Indian Affairs, July 6, 1944).

Father Plourde, of the Catholic Church, argued in defense of the teacher's capabilities, saying that the Department's allegations of incompetence were wrong. Plourde argued that the Department's complaints about the lack of English being taught were unfounded, and that the teacher's knowledge and use of English was "more than that possessed by the ordinary teacher", and that "it was just as good as that possessed by any teacher." Father Plourde concluded his defense of the teacher, and the practices of the Catholic Church, by arguing that it was hard to find teachers who were willing to work on Indian Reserves (Plourde to Supt. Phelan, Nov. 22, 1945).

The question of attendance at the school does not appear to have been a concern, as Indian Agent Cameron reported that since the payment of family allowances to the parents, attendance at the Day School was good (Cameron's Report to Indian Affairs, Dec. 31, 1945).

The outcome of the argument was that the Catholic Church would not replace the teacher and the Department responded by firing the teacher and closing the school for the remainder of the school year. As it turned out, the school was closed from January to June, 1946, and was opened again in the fall of 1946, with the same teacher conducting classes (Cameron to Indian Affairs, June 6, 1946). It was now operated as a non-denominational school under the direct authority of the Department of Indian Affairs.

The conflict between the Band and Indian Affairs over the education of the Joseph Bighead children, and the role of the Church, flared up again in 1948. This time the conflict was over the matter of religious instruction during school hours. The teacher complained to the Department that her classes were being interfered with by the Catholic missionaries. The Indian Agent supported the teacher and told her that since the school was non-denominational, her teaching should not be disrupted by religious training (Packman to Lepine, Teacher, Jan. 2, 1948).

The Department, however, did not support its Agent or the teacher, and said that since the Catholic Church had always been permitted to nominate someone for the teaching position at Joseph Bighead, and that it supported the Catholic Missionary's practice of the visiting the school, when it was convenient, to teach religion to the children who were Catholic (Phelan to Packman, March 7, 1948).

The argument between the teacher and the Missionary intensified. The teacher argued that the Missionary was uncooperative and continually interfered in her teaching, by coming to the school unannounced to give religious instruction for any length of time that was convenient to him. The Missionary retaliated by criticizing both the teacher's teaching ability and her lifestyle. Indian Affairs did not support the teacher and again said that it approved of the Missionary giving some religious instruction, but that he would not be allowed to monopolize school time (Ostrander to Neary, Indian Affairs, July 9, 1948). The teacher subsequently resigned over the controversy, and the Department decided that if there continued to be excessive interference when a new teacher was employed, that the Department would recommend that the Missionary be transferred (Neary to Ostrander, May 27, 1949).

According to Band members who have spent most of their lives on the Joseph Bighead Reserve, the one-room school built in 1931 was constructed of hand-sawn lumber and was about 20' X 20' in size. The school was heated by a wood stove and coal oil lamps provided light. This school was used until the early 1940's, when it was replaced by a larger one-room school built of logs. In 1951, the Department built a two-room school with an attached teacherage. The school burned down in 1960 and was replaced by a "temporary" 30' X 30' building that was hauled in from Meadow Lake by the Department of Indian Affairs. "Temporary" turned out to be permanent. A new masonry and wood school was not built until

1979.

Before 1985, the highest grade provided on the Reserve was grade nine. Students who went beyond this point in school had to leave their families and community to attend school (J. Singer, E. Sundown, J. Kahpeepatow, P. George, J. Wahpistikwan, Wm. Bear-in-Hole, Nov. 16, 1989). When the Band took control of the school, in 1985, they immediately made plans to include the high school grades in the school. Grade 10 was added to the program in 1986, grade 11 in 1988, partial grade 12 in 1989 and a full grade 12 in 1990. This decision to choose Band control resulted in increased attendance and over-crowding in the school. Portable classrooms were used until additional classrooms and a gymnasium were built (H. French, 1991).

The following tabular data show a rapid increase in enrollment in the school after the new school was built in 1979. Table 1.0 shows that the most significant increases were in the 1983-84 and 1984-85 school years, which are the years of the discussions within the Band regarding the importance of education and the decision to take control (H. French, 1990). There is no evidence of migration or population change to explain the increases.

Table 1.0 Band Nominal Roll

Year	Enrolment		Total
	On-Reserve	Off-Reserve	
1979-80	102	3	105
1980-81	87	0	87
1981-82	109	4	109
1982-83	101	6	107
1983-84	133	5	138
1984-85	165	5	170
1985-86	170	4	174
1986-87	186	1	187
1987-88	197	4	201
1988-89	208	3	211
1989-90	208	0	208
1990-91	223	0	223

(INAC, May, 1990; Band Nominal Roll, January, 1991).

During the 1950's and 1960's the Department of Indian Affairs actively promoted a policy of integrated schooling. Agreements were entered into with Provincial school divisions, whereby Indian elementary and secondary education students were transported from the reserve to Provincially operated schools. To promote Provincial participation in the education of Indian students, Indian Affairs, without consultation with Indian parents or Band Governments, entered into Capital Agreements and Tuition Agreements with the local school divisions. The Capital Agreements were bilateral financial arrangements between Indian Affairs and the province, to construct or expand existing educational facilities to accommodate Indian students. From the 1950's to the 1980's approximately 115 Capital Agreements were entered into in Saskatchewan, at a cost of $23,169,000, to accommodate 7,868 Indian students in Provincial schools (INAC, Sask. Region, 1990). The Capital Agreements were amortized over a period of 25 years and obligated Indian parents to send their children to provincial schools whether they wanted to or not.

The following data reflects the level of Indian Affairs activity in the promotion of integration:

Table 2.0 Capital Agreements, Saskatchewan Region

	Capital Agreements	Seats Purchased	Cost($000)
1950's	3	140	167.3
1960's	80	5,600	6,662.0
1970's	29	1,834	11,663.9
1980's	3	294	4,716.1
Total	115	7,868	23,169.3

(ibid).

The Joint Tuition Agreements were arranged with the same objectives in mind, and within the same bilaterial format. Indian parents and Band Governments were excluded from the arrangements. In Saskatchewan, 25 Tuition Agreements are currently in effect, to acommodate 4,302 students in Provincial schools (ibid.). The existing Canadian and Provincial law says that the parents and Band Governments do not have legal jurisdiction over the education of their children. None of the existing Tuition Agreements were entered into on a tri-lateral basis - INAC/Province/Band - and will stay that way until there is a change in both Federal and Provincial laws. The existing Federal and Provincial division-of-powers does not allow for Band Governments to represent their constituents as equals in negotiating the type of education to which their children will be exposed. This applies to the education of Indian students attending schools located on-Reserve, and clearly reflects the superordinate power of Canada over the education of Indian children.

Internal Colonialism

Hechter's description of a colonial system, that operates internally within an independent nation state, is based on one fundamental condition and five variables. Hechter's **condition** is the assumption that economic dependency is a common feature of all asymmetrical relations where one culture dominates another (1975: 349). In the case of the Joseph Bighead Band to Canada economic relationship, the 389 on-Reserve Band members are economically dependent on the Canadian Government for the financing of all of its institutions, services and capital requirements. Each item in the annual budget of the Band is funded externally: education, social development (welfare), Band Government, infrastructure operations and maintenance, economic development, health and recreation. Without this funding the Joseph Bighead community could not survive. In the absence of an independent economic base, the Joseph Bighead Band is dependent on external government financing (Contribution Arrangements, INAC and NHW, 1990-1991).

Historically, the transition from being economically independent to being a dependent culture took about 10 years. In 1913, Commissioner Chisholm wrote that the people of Joseph Bighead "make a comfortable livelihood" and that "they have not felt the pinch of poverty..." (RG 10, Black 429511, v. 4072:9). In 1925, the Band was still self-sufficient through hunting, trapping and fishing. Anglican Bishop Lloyd predicted, however, that it only be a "few years" before these economic activities were not longer viable and the Band would "settle down" (RG 10, Black, v. 6296, f. 626-1).

Bishop Lloyd's prediction came true. By the mid-1930's the Band was described by the Indian Affairs Director of Welfare and Training, as being dependent on Government support and unable to produce an adequate food supply (ibid., Hoey to Lirette, June 8, 1937).

The consequence of this rapid transition from self-sufficiency to economic dependency is clear from a description of the Joseph Bighead Band's economic activity in 1990. The economic and employment data from February 21, 1990, indicate the extent of the dependence on external funding of the 389 residents of the Joseph Bighead Reserve. According to this data, 77% of the Joseph Bighead Band is receiving social assistance, and the other 23% are dependent on employment created through transfer payments to support themselves and their families (Band files).

The main source of income and employment is generated annually from the program and operational funds secured from the Department of Indian Affairs, with smaller amounts coming from National Health and Welfare (NHW) for the National Native Alcohol and Drug Abuse Program (NNADAP), and the Community Health Representative Program. The Band Office and the Chief Napayo School provide the most continuous employment, while part-time and seasonal employment is available through activities such as the housing program and recreation (Band Social Assistance and Program Budget Analysis, Feb. 21, 1990).

The Band cafe and arcade, and the Band ranch have not been self-sufficient business enterprises, and are subsidized through Indian Affairs economic and employment development programs. The only income generating activity in 1990, was the royalties returned to the Band from the natural gas wells located on the Reserve. The operation and maintenance of the gas wells do not employ anyone from the Band, and the royalties are used to support Band cultural, social, economic and political activities that cannot be supported in any other way. The Band unemployment rate in 1990 was 76%.

Table 3.0 Economic Profile: Source of Income

Activity	No.	
Band Office	5	Band Government support.
	11	Employees in management, finance,social assistance and maintenance.
	1	Road maintenance.
School	4	Teacher Aides, maintenance and janitorial services.
	3	School bus drivers.
Triple J. Ranch	6	Herdsmen and maintenance.
Health	1	Community Health Rep.
	1	Alcohol and Drug Abuse Counsellor.
Cafe	1	Manager.
UIC	2	Single, no dependents.
	2	Married, with 6 dependents.
Social Assistance	106	With 192 dependents (298)

Hechter's **first variable** in the definition of an internal colony focuses on an analysis of the asymmetrical relationship to determine "the degree of administrative integration' of the subordinate (peripheral) culture into the administrative structures of the superordinate (core) culture (1975: 349). Hechter further defines this variable by arguing that it is essential to define "the extent to which laws passed for the core (Canada) apply in the periphery (Joseph Bighead Band)" (ibid: brackets added).

The Band's relationship with Canada is dictated by the division of powers between the Federal and provincial Governments, as they are outlined in the Constitution Act of 1867. Section 91(24) specifies that the Federal Government has exclusive legislative authority over "Indians and lands reserved for Indians.". Section 92 provides the Provincial

Government with jurisdiction over such matters as marriage, public health, local business, administration of justice, licenses, and property and civil rights. Section 93 provides the Province with the authority and responsibility for education.

Sections 92 and 93 of the Constitution Act (1867), outlining Provincial powers, are important when they are compared to the powers of a Band Council and the powers of the Minister of Indian Affairs, as they derive from the Indian Act. Hawley points out that, generally, the Band Council has local level, municipal type powers, while the Federal and Provincial jurisdictions hold all of the legal, social and economic powers (1984: 121-124).

Politically, Band Governments depend on the Indian Act and its Regulations, for all of their authority and administratively they are bound by the rules, standards and procedures of the Department of Indian Affairs. In education, for example, everytime a Band wants to assume control over the education of their children the Department legally imposes, through Section 88 of the Indian Act, the Saskatchewan Education Act (1978), and its accompanying Regulations. The education section of the Joseph Bighead Contribution Arrangement, for the 1990-1991 fiscal year, includes arbitrary terms of reference that compel the Band to apply the Saskatchewan Education Act to the operations of their school.

The problem this situation creates for the Joseph Bighead Band, is not based on educational standards and teacher qualifications or a desire to reject those standards. From the Band's point of view, it is a question of jurisdiction and the Band's right to govern its internal and external affairs. According to the Band's Convention Act of 1987, it has the right to determine all of its internal and external affairs, and those rights derived from their aboriginal rights and the guarantees negotiated in Treaty #6. The problem is compound because if they do not enter into agreements that include the terms of reference dictated by the Department of Indian Affairs the Band will not receive the educational funding required.

The relationship between the Band and the Government is both political and economic, with the Band operating from a position of political strength and economic weakness internally, against the external political and economic power of Canada. The Band Indian Government does not have direct control over its economy and unless the Government of Canada is willing to recognize the Band's demands, the Band remains dependent, controlled by an external agent - the Department of Indian Affairs. This asymmetrical relationship is shown on page 92.

All of the laws passed by the Parliament of Canada apply to the Joseph Bighead Cree, both individually and collectively. And, in the administration of Indian Affairs funded programs, on-Reserve, the Band Government is compelled to deliver the programs and services according to the rules and regulations created unilaterally created by the Department.

This external control even says, through the Indian Affairs Contribution Arrangements, that the Band must agree to be accountable to the citizens of the Joseph Bighead Band (Contribution Arrangement, 1990 - 1991).

The citizenship status of the subordinate population is Hechter's **second variable** in the determination of internal colonialism. Hechter states that citizenship status is measurable according to "three components: civil, political and social rights" (ibid.). These three factors are not clear cut. There is an overlap between them, in specific examples. For example, is the question of who an Indian woman marries a social issue, or is it a civil or political question? It is a social decision on the part of the Indian woman, that is reacted to both civilly and politically by the Canadian Government. Prior to 1985, through a political act of Government, she would have lost her legal and civil status as an Indian. With the passage of Bill C-31, by the Canadian Parliament, on April 17, 1985, this legally imposed discrimination allowed under Section 12(b) of the Indian Act was removed, and retroactive measures were put in place to permit those who had lost their Indian status to regain it.

However, the terms and conditions of regaining Indian status under Canadian law are still legally and politically controlled by the dominant power asymmetrically. In the case of the Joseph Bighead Band, the Department of Indian Affairs requested that the Band Government create a Membership Code. The Code was developed and approved by the Band members. Its final legal approval only came when it had met all of the criteria established by the Department of Indian Affairs. This Code is still in force, and it illustrates the civil and political power of Canada to circumscribe the social rights of the Joseph Bighead Cree to determine who is, or is not, an Indian.

Figure 3.0 Band Government-Indian Affairs Relationship

	BAND GOVERNMENT	INDIAN AFFAIRS
	Authority	
Policy	legitimated by electorate and Indian Act	legitimated by Parliament through the Indian Act
Program Delivery	legitimated by electorate and Indian Act	power to establish and enforce program standards and demand compliance although not the direct delivery agent
Finance	to secure funds from Indian Affairs	to secure funds from Parliament and determine allocations to Bands
	Accountability	
Policy	to Band members and Indian Affairs	to Indian Affairs via Acts, Regulations and Guidelines of Canada and Saskatchewan
Program Delivery	to Band members and Indian Affairs	to Indian Affairs via Acts, Regulations and Guidelines of Canada and Saskatchewan
Finance	to Band members and Indian Affairs	to Indian Affairs and Department of Finance

The education of Indian students provides another example of the individual and collective control exercised by the Department of Indian Affairs over the civil, social and political rights of Indian parents and Band Governments. This example derives from an interpretation of the education section of the Treaties, which obligated the Crown to provide educational services to Indian people. The issue of Indian residency is a point of controversy between the Indian Nations and the Department of Indian Affairs.

Under Treaty #6 (1876) the Indian Nations were promised education as a Crown responsibility. During the negotiations at Fort Carlton, the Treaty Commissioners told the Indian people:

> You need not concern yourself so much about what your grandchildren are going to eat. Your children will be taught, and then they will be well able to take care of themselves as the whites around them.
>
> and When the Indians settle on a reserve and have a sufficient number of children to be taught, the Queen will maintain a school (Morris, 1876).

The Indian interpretation of the promise is that all educational services would be provided free, and that there is no residency requirement. In other words, where Indian parents live, on- or off-Reserve, is not regarded as an issue in the provision of free educational services to Indian students (Everett, 1990).

The Government of Canada, however, has a different point of view, which is reflected in the Indian Act, RSC, 1985. Section 4(3) clearly states that the Department of Indian Affairs takes no responsibility for the provision of education financial support to the children of Indian parents who live off-Reserve. Section 4(3) states:

> Section 114 to 123 (education) and, unless the Minister (of Indian Affairs) otherwise orders, sections 42 to 52 (descent of property, wills, mental incompetence, guardianship) do not apply to or in respect of any Indian who does not ordinarily reside on a reserve or on lands

> belonging to Her Majesty in right of Canada or a Province (Indian Act, RSC 1985, c.I-5, brackets and underlining added).

This unilateral political and civil action on the part of Canada denies Indian people what they regard as a social right guaranteed by the signing of Treaty #6 (Everret, 1990).

Leslie and Maguire's (ed.) book, The Historical Development of the Indian Act (1978), discusses the citizenship status of Canadian Indians. The pre-Confederation and post-Confederation history of the Indian relationship with the British Colonial and Canadian Governments clearly indicates that the Indian Nations were in a subordinate position. The creation of laws to define who was an Indian and where he/she could live, and to regulate all aspects of Indian social, civil and political activity, show that Canada did not regard Indians as citizens within the Canadian nation. Canada regarded Indians as persons who needed to be controlled, "protected" and assimilated before they could be citizens.

Indian rights to practice their religion and ceremonies were made illegal. The right of an Indian woman to marry a non-Indian and retain her Indian status for herself and her children was denied through the Indian Act, and was only rectified on April 17, 1985, through an Act of Parliament. Under the Indian Act an Indian could be enfranchised and lose his legal Indian status, without his permission. All he needed to do was achieve a University Degree, or be judged competent to handle his own financial affairs, and an Agent of the Department of Indians Affairs could declare him a Canadian citizen, and, therefore, no longer an Indian.

The political rights of Indians who live on Reserve have been limited by Federal and provincial law. Indians residing on Reserve were not allowed to vote in Federal and Provincial elections until the early 1960's. This denial was based on the belief that because Indians were exempt from taxation and were not property holders, in the sense of private property, they were not eligible to vote under Canadian and subsequently Saskatchewan law (Leslie and Maguire, 1978: 152-153). Today, Indian people can vote, or be a candidate for election, in Federal and Provincial elections.

The repeal of this law has not, however, provided Indians with full political equality in Canada. On-Reserve Indian political rights continue to be denied at the municipal level in Saskatchewan. Until 1984, the Saskatchewan Education Act and now the Local Government Election Act (1984), excluded on Reserve Indians from eligibility as an elector, or a candidate, in a municipality or school division. The Local Government Election Act (1985) states:

> Section 23(1). Every person is qualified to be registered as an elector in a municipality or school division (who) ... is, on the last revised assessment roll (and) the owner of assessable land ... (brackets added).

Because Indian Reserves are Crown land, and not assessable for taxation under Provincial law, on Reserve residents are excluded from voting in municipal or school division elections.

The Canadian Indian Act (1985) and the Canadian Courts legally define the status of Reserve land and how the land is held. In the Indian Act, under section 2., "reserve":

> (a) means a tract of land, the legal title to which is vested in her Majesty, that has been set apart by Her Majesty for the use and benefit of a band,

This interpretation is expanded in section 18(1) of the Indian Act (1985):

> Subject to this Act, reserves are held by her Majesty for the use and benefit of the respective bands for which they were set apart; and subject to this Act and to the terms of any treaty or surrende. the Governor in Council may determine whether any purpose for which lands in a reserve are used or are to be used for the use and benefit of the band.

The Canadian Courts have also supported the Indian Act and the position that Reserve land is Crown land, and is held collectively and not individually by Band members. This principle of Canadian civil law excludes on Reserve Indians from the right to vote in municipal and school division elections (Joe vs. Findlay, 1981, in Hawley, 1990: 37; R. vs. Stevenson, 1986, in ibid.:52).

The only exception to this political restriction in Saskatchewan is found in the area of education. There are no exceptions for municipal elections. Under section 27(2)(b) of the Saskatchewan Education Act, the Minister of Education "may, in his discretion"

> create a sub-division consisting of one or more Indian Reserves where an agreement has been entered into with the Government of Canada under section 114 of the Indian Act (Canada).

The Local Government Election Act (1985), sections 2 and 38 to 47, supports the Education Act by describing the specific qualifications of electors and electoral procedures to be carried out by the Indian Bands, in order to have representation on a Provincial Board of Education. The intent of these two Saskatchewan laws is to allow for on-Reserve Indians to have representation on a Provincial Board of Education that has contractual obligations to educate Indian students. The political rights of the Band members are, however, strictly defined and limited, and not equal to non-Indian voters.

The civil rights of on-Reserve Indians to govern their social and economic affairs are also defined by Canadian law and their administrative and management guidelines are imposed on the Bands. Frideres (1983), Ponting and Gibbins (1984), Hawley (1984, 1990), Cassidy and Bish (1989), Dryzek and Young (1983), Bean (1977), and Carstens (1971), have all pointed out that the locus of political, civil, social and economic power is beyond the control of Indian people. Their descriptions of the asymmetrical relations between Canada and the Indian Nations supports Hechter's argument that the differential application of legislative and administrative control over a subordinate culture, within a nation state, effectively denies that culture full citizenship within the state: their social, political and civil rights are different from those held by the superordinate culture.

The Joseph Bighead Band's analysis of their relationship to the Department of Indian Affairs, demonstrates the intensity of governmental control over the Band, and the Band's level of understanding of the relationship. In October, 1986, the Band Government did an analysis of the Contribution Agreement submitted to them by the Meadow Lake District Office of the Department of Indian Affairs. The Contribution Agreement contained a contractual section outlining the terms that the Band would have to agree to before the money could be allocated to them by the Department. Attached to the Agreement were descriptive Schedules, which detailed the specific program responsibilities (education, social assistance, Band support, recreation, Band membership, operations and maintenance), and the Canadian and Saskatchewan laws, codes, regulations, standards and forms which the Band was to follow, and be accountable for, to the Department of Indian Affairs.

In all the Band Government identified 58 items in the Contribution Agreement over which they had absolutely no control. In the majority of cases, the Band government had no idea what was required of them in order to comply with the Contribution Agreement (see Appendix A. for a list of the items identified).

Hecter's **third variable** emphasizes the importance of assessing the relations between the Joseph Bighead Band and Canada. Hechter specifically addresses the issue of "the prestige of the peripheral culture", and argues that:

> ... the existence of a culture of low prestige within the peripheral region is justificiation enough for the establishment of an internal colony category: without it, there can be no cultural division of labor (ibid.).

According to Webster's New World Dictionary (1970: 1126) "prestige" is defined as "the power to impress or influence, as because of success, wealth, etc." The measure of "success and wealth" of the Joseph Bighead Band, compared to the non-Indian Saskatchewan population, clearly indicates that the Joseph Bighead Band Cree do not have the "power to impress or influence" the policies and structures that control them.

Selected data from the Statistics Canada analysis of the 1986 census returns from Joseph Bighead and Saskatchewan indicates that for the population 15 years of age and over:

Table 4.0 Education, Employment and Income

	Joseph Bighead	Saskatchewan
Less than Gr. 9	51.4%	19.2%
High School Diploma	2.9%	10.8%
University Degree	0.0%	7.4%
Employed	23.5%	61.5%
Average Income	$6,504	$16,828

(Stats. Canada, Aboriginal Peoples Output Program, 1986).

The education program at Joseph Bighead has been Band-controlled since the beginning of the 1986-1987 school year and as of the 1990-1991 offers a Grade one to Grade twelve program to 223 students, with a staff complement of 23, of whom 12 are non-Indian (H. French, 1990). In addition, the Band has hired a Band member as an Education Guidance Counsellor and a retired Indian Affairs Assistant Superintendent of Education has been contracted on a half-time basis to assist the Principal, the Indian Government and the Band Board of Education in educational planning and finance.

All school age children attend school on Reserve and, in the past, drop-out of school by the completion of Grade nine, at the very most. The average grade completion level of the Band members is 7.5 (men - 7.0, women - 8.0). In 1986-1987 only one student was attending high school at the Beauval Indian Education Centre and from 1981 to 1986 only three students completed Grade 12 (Band Profile, 1986).

CTBS scores for 1986 indicate that for students in Grade eight, the average age-grade lag was approximately two years, with greatest lag found in the subjects of mathematics and reading (INAC Psychometric Data, 1987).

It indicates that the Joseph Bighead Band does not have the "success and wealth" to meet the dominant culture on a level playing field. When combined with its economic dependence on transfer payments from the Department of Indian Affairs, the broad application of Canadian law to the social, political and economic operations of the Band, and the citizenship status of the Joseph Bighead Cree, the only conclusion one can draw is that the Joseph Bighead Band is a culture of low prestige within Canada.

Hechter's **fourth variable** of an internal colony is "the existence of geographical contiguity between the core (Canada) and the peripheral cultures (Indian Reserves)" (ibid., brackets added). Canadian Indian Reserves are surrounded by Canada. The map of Saskatchewan (p. 100) shows that the Joseph Bighead Reserve is bordered by Provincial land.

Hechter's **fifth variable** in the internal colony model is "the length of association between the periphery (Joseph Bighead Band) and the core (Canada)" (ibid., brackets added). There is no written account of the early history of contact between European cultures and the Woodland Cree who later became known as the Joseph Bighead Band. There is sufficient historical information, however, to state that contact between the Europeans and the ancestors of the Joseph Bighead Cree took place after 1754-1755 with Alexander Henday's exploration of the North Saskatchewan River (Kerr, 1960: 20).

Another reliable source of information is in the history of the fur trade in the north-west area of Saskatchewan. There are two major river systems in the region, the North Saskatchewan and the Churchill Rivers. They were major fur trade routes during the last half of the 18th century. The map of Saskatchewan (p. 100), in addition to showing the present day location of the Joseph Bighead Cree, shows the river systems and the location of the fur trade posts, and the dates they were established during the 18th. and 19th. centuries.

The Joseph Bighead Band is an internal colony within the nation of Canada. The application of Hechter's model to the relationship between Canada and the Joseph Bighead Band shows that the Band is economically dependent on Canada, that the laws of Canada dictate the Band's administration - internally and externally - that the citizenship status of the Band members is not the same as Canadian citizens generally, that the Band's prestige is low, geographical contiguity exists, and there has been a 200 year association between the two cultures.

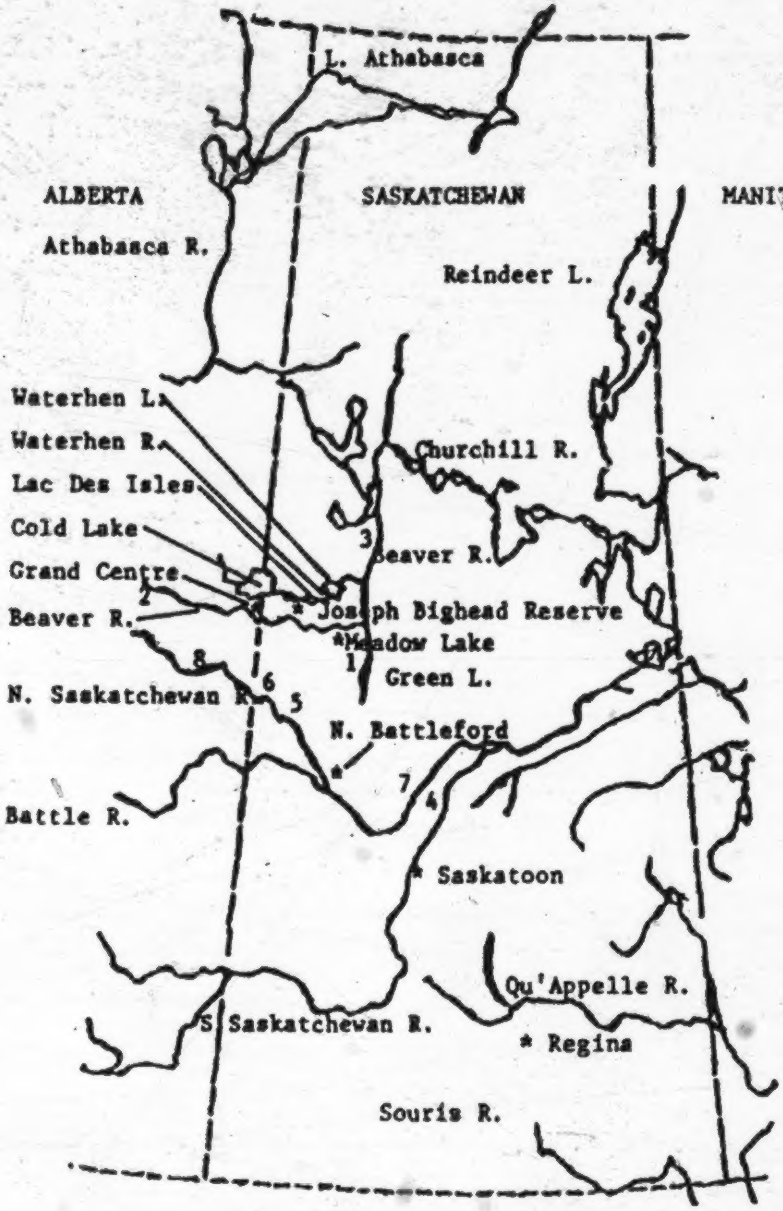
Resistance to Domination

J. C. Scott, in Weapons of the Weak (1985), a study of resistance in the village of Sedaka, Malaysia, focuses attention on the "practice of resistance." Scott argues that resistance is as much an "ideological struggle" as it is an overt confrontation between classes of people in an asymmetrical relationship (ibid.: xvii). Scott claims that:

Map 1

Geographic Location of Joseph Bighead Reserve and Selected Hudson's Bay Co. and North-West Company Trading Posts

1. Ft. Green Lake, 1795, H.B.Co.
2. Ft. Lac d'Orignal, 1789, N.W.Co.
3. Ft. Ile-a-la-Crosse, 1776, N.W.Co.
4. Ft. Carlton, 1787, H.B.Co.
5. Ft. de l'Isle, 1801, H.B.Co.
6. Manchester House, 1786, H.B. Co.
7. Ft. La Montee, 1787, N.W.Co.
8. Ft. George, 1792, N.W.Co.


L. Athabasca
ALBERTA
SASKATCHEWAN
MANITOBA
Athabasca R.
Reindeer L.
Waterhen L.
Waterhen R.
Lac Des Isles
Cold Lake
Grand Centre
Beaver R.
Churchill R.
3
Beaver R.
2
* Joseph Bighead Reserve
*Meadow Lake
8
1
Green L.
N. Saskatchewan R.
6
5
N. Battleford
7
4
Battle R.
* Saskatoon
Qu'Appelle R.
S. Saskatchewan R.
* Regina
Souris R.

> Resistance includes **any** act(s) by member(s) of a subordinate class that is or are **intended** either to mitigate or deny claims ... made on that class by superordinate classes ... or to advance its own claims ... vis-a-vis those superordinate classes (ibid.: 290, emphasis and brackets in original).

This definition allows for an analysis of resistance to include both the 'intentions of resistance' and the 'consequences of resistance'. Scott argues that any analysis of "real" resistance, as opposed to "token" resistance, must take into account both the intentions as well as the expected outcomes, or consequences, of resistance, in order for the conclusions to be valid. Scott states that:

> Real resistance ... is (a) organized, systematic, and cooperative, (b) principled or selfless, (c) has revolutionary consequences, and/or (d) embodies ideas or intentions that negate the basis of domination itself. Token, incidental, or epiphenomenal activities, by contrast, are (a) unorganized, unsystematic, and individual, (b) opportunistic and self-indulgent, (c) have no revolutionary consequences, and/or (d) imply, in their intention or meaning, an accommodation with the system of domination (ibid.: 292).

Scott claims that resistance movements should be analyzed as both individual and collective acts of opposition, not simply as one or the other (ibid.: 290-297). He also cautions against allowing the structures of domination to determine what is or is not seen as resistance. His argument is that the ideological phenomena must be taken into account (ibid.: 298), for it is within this realm that the cultural intentions of "survival and persistence" can be linked to the organized resistance against the structures of domination (ibid.: 301).

Scott's categories for identifying types of resistance coincide with Giroux's argument that asymmetrical relations are seen by subordinate groups as "issues of power and social determination" (1983: 111). "Power" meaning political and economic control over the internal and external affairs of the subordinate culture, and "social determination" meaning the persistence and promotion of the subordinate cultures language, beliefs, history and customs. The structural and ideological conditions apply to the Joseph Bighead Band and its intentions to create a more equal and balanced relationship between it and Canada. In Ortner's terms, the "realities of asymmetry, inequality and domination in a given time and place" are reflected in education and it becomes the focal point of the resistance struggle (1984: 149).

The educational objectives of the Joseph Bighead Band Government are based on their self-defined political power to govern both the internal and external affairs of the Band. In this case, the Band is not only confronted by the powers of Minister of Indian Affairs and the bureaucracy of the Department, and Section 93 of the 1867 Constitution Act, which grants educational powers to the Provinces, but by the economic power of Indian Affairs over the funding of Indian education. The Band is confronted by the internal colonial powers and structures of Canada.

The Band's "real" resistance to this domination includes the ideological justification for claiming sovereignty, and an attack on the structures that control them.

Band Government

The Government of the Joseph Bighead Band is according to Band Custom, with the Chief and four Headmen making up the elected Council of the Band. The Government is elected for a four year term, with an annual review being conducted by the electorate of the Band. Under this system of annual reviews, it is possible for the Chief or a Headman to be removed from office, if the Band membership is dissatisfied with him or her (Joseph Bighead Band, Election Act, 1987). The Chief has the authority to assign individual Headmen to specific activities, e.g. education, hunting, trapping and fishing, economic development, health and social development, while retaining overall responsibility to ensure that these duties are carried out (ibid., Convention Act, 1987).

Although the Band membership had articulated and ratified the powers of its Band Government, and given the Chief broad powers, most decisions are made by consensus, or general agreement, by the Band membership. This practice is particularly important on issues that are seen as being of concern to the whole Band membership. In these cases, the Band Government will not make a decision without first calling a meeting of the total Band membership (E. Sundown, 1990). For example, when the Band Government decided, in 1986, to begin the process of creating their own laws, they decided that at every stage of the process, the Band members were to be consulted (ibid.). Education was identified as the area to be worked on first. By the time the Joseph Bighead Band Education Act was ratified by the Band Membership, on January 8, 1987, four Band meetings had been held to discuss the Education Act with the Band members. In addition to the Band meetings, the Band Government in cooperation with the Band Board of Eduction, took responsibility for developing six drafts of the Act before it finally was approved. Also, in order to ensure a broad base of community understanding, they had the final draft of the Education Act translated into Cree (syllabics and Roman orthography) and they prepared Cree Language audio-tapes of the Act. The Cree version of the Act and the tapes were distributed to the Band membership and were followed up with discussions in the individual homes (ibid.). This process became the Joseph Bighead Band's way of recognizing both the individual and collective rights of the Band and its members. The collective rights of the Band were defined through the meetings and consultations, and individual rights were protected by their involvement in the process.

This same process was followed in the development of the Band's Convention Act, Elections Act, Personnel Act, and Financial Management Act. As a former Headman put it:

> We started this work because we were tired of being told what to do by the Department. It is not our way to write down our laws ... that isn't how our former leaders did things. The reason for doing this is to show Indian Affairs that we have a system of government and that they must treat us as an equal. Our Treaty #6 doesn't say anything about us giving up the right to make our own decisions ... without asking their permission if it's O.K., or not. Our people here have agreed that we must protect our Treaties and that Canada must recognize our authority to make our own decisions on how we will live. All of those Indian Affairs rules and regulations

> make us administrators for the department, not our own people.
>
> By making our own laws we will show them that we mean business ... that all of the people here agree, and they will have to recognize us as equals. And that we are the First peoples of this land.
>
> Our Band has been failed by the Indian Affairs education system. All the people here speak Cree and practice our culture and traditions. The education system has never recognized those things. It has tried to destroy them. By creating our own law and controlling our children's education we will show them that we can do a better job than they ever did (Paul George, 1990).

With this broad base of community support and common purpose, the Joseph Bighead Band began a resistance movement that was based on an ideological commitment to change the structures that controlled them.

In September, 1986, while the issue of the CAD was being discussed, the Indian Government of the Joseph Bighead band initiated discussions with the Band membership, on the topics of jurisdiction and authority based on their inherent rights, which are to them both moral and legal rights. The resulting mandate directed the Chief and Headmen to proceed with the creation of Indian law as it applied specifically to the Joseph Bighead Band. The intention was that by writing their own law, they could not only regulate the internal affairs of the Band, but they could also control and regulate all relations external to the Band. This was to include, but not necessarily be limited to, all fiscal arrangements with the Crown and its agencies of government (Band Files, 1986).

Sections 4. and 6. of the Joseph Bighead Convention Act, 1987, describe the basis for the Band's jurisdiction and authority, including any limitations on that authority:

> Section 4. The Government and procedures confirmed by this Convention Act, will be governed primarily by Indian law and custom, and

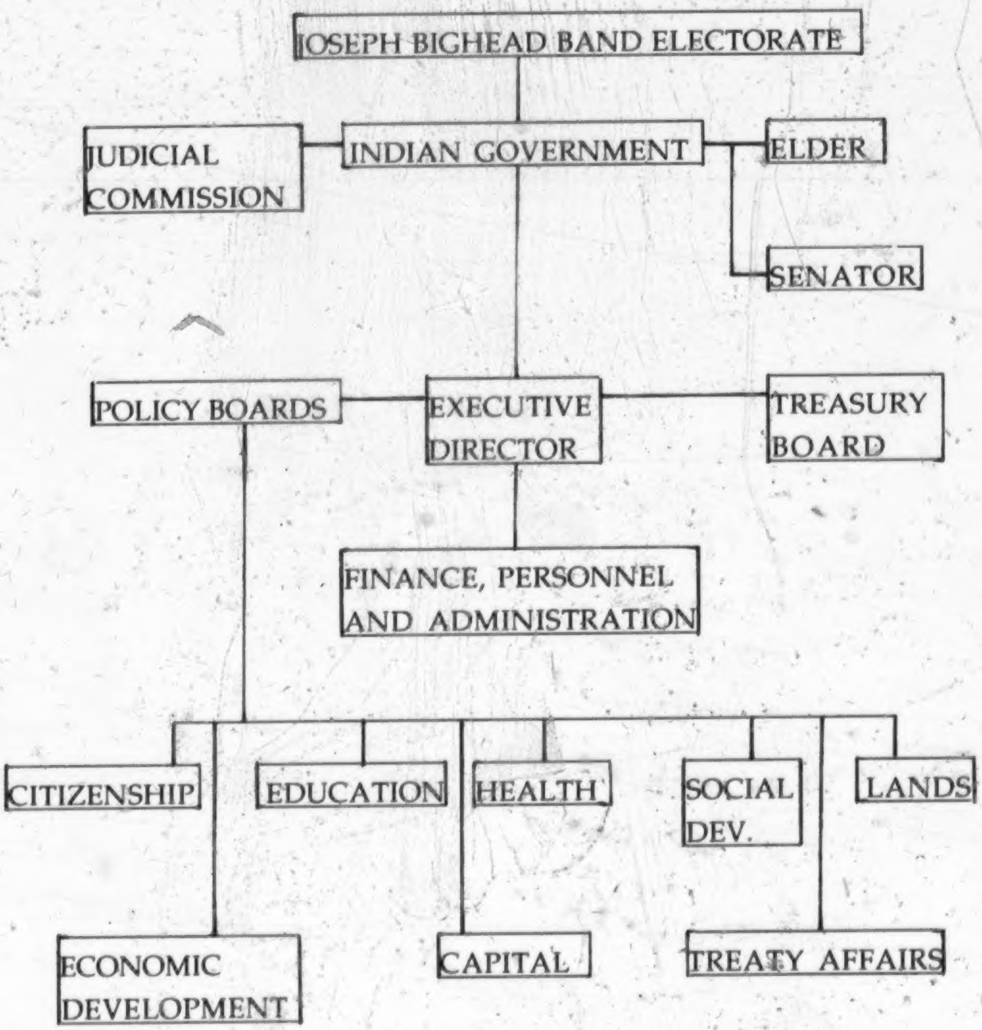
> connected with Indian traditions and culture, unless Anglo - Canadian law is expressly adopted by the Band.
>
> Section 6. The political existence of the Indian Government of the Band is independent of recognition by Canada. The Indian Government of the Band has the right to provide for its preservation and prosperity, and consequently to organize itself as it sees fit, to legislate concerning its interests, to administer its services, and to determine the jurisdiction of its courts. The exercise of these rights is limited only by the Treaty No. 6 entered into with the Crown (Convention Act, 1987, underlining added).

Between September, 1986, and April, 1987, the Joseph Bighead Indian Government, with the on-going support of its citizens and the advice of the Band Elders, carried out a process that resulted in the passage of five pieces of Indian legislation - Convention Act, Financial Management Act, Personnel Management Act, Election Act and Education Act - and the ratification of four pieces of subordinate legislation - Treasury Board Terms of Reference, Financial Regulations, Election Regulations and Oath of Office (Band Files, 1987).

The immediate consequences of this initiative at Joseph Bighead were fourfold: 1) the Indian Government has a clear policy mandate on how to conduct both its internal and external affairs; 2) the day to day management of the Band's affairs have been clearly articulated; 3) it has identified the specific issues of jurisdiction they must address with the Crown, particularly the Department of Indian Affairs; and 4) it has clearly made the claim to exclusive jurisdiction, both in the political and managerial realms of the Band's activities.

The following figure shows how the Joseph Bighead Band has organized itself internally.

Figure 4.0 Joseph Bighead Band, Proposed Structure. May 28, 1987


JOSEPH BIGHEAD BAND ELECTORATE
JUDICIAL COMMISSION
INDIAN GOVERNMENT
ELDER
SENATOR
POLICY BOARDS
EXECUTIVE DIRECTOR
TREASURY BOARD
FINANCE, PERSONNEL AND ADMINISTRATION
CITIZENSHIP
EDUCATION
HEALTH
SOCIAL DEV.
LANDS
ECONOMIC DEVELOPMENT
CAPITAL
TREATY AFFAIRS

The Band's claim to exclusive jurisdiction over the education of its students, is specified in the Joseph Bighead Indian Education Act (1987) (Appendix B.). The Purposes and Principles section of the Act, Articles 3(a) through (i) illustrate this claim:

3. The purposes and principles of this Act are:

(a) The structures, organizations and procedures confirmed by this Education Act will be governed primarily by Indian law, and custom and connected with Indian traditions, and culture, unless Anglo-Canadian law, and custom are expressly adopted by the Indian Government of the Joseph Bighead Band.

(b) To implement our Treaty with the Crown under the jurisdiction and authority of the Indian Government of the Joseph Bighead Band. Should any inconsistencies or conflicts arise between our Treaty and this Act, the Treaty shall take precedence over this Act in all instances.

(c) To promote the following principles:

i. that in all matters the Band and its Indian Government is paramount;

ii. that in all matters the Band and its Indian Government is sovereign;

iii. that the Indian-Crown Trust relationship shall be maintained and is grounded in our Treaty No. 6 with the Crown, the Royal Proclamation of 1763, the Constitution Act, 1982, Sections 25 and 35(1), which recognize and entrench our Treaties.

(d) To establish an education system to serve the educational needs of the Joseph Bighead Band that is consistent with the spirit and intent of our Treaty with the Crown.

(e) To empower Indian Government with the right to provide the facilities, programs and procedures, equipment and personnel necessary to the management and operations of the education system.

(f) To establish educational standards and curricula that promote and enhance the education of Indian students.

(g) To provide Indian Government with the powers to delegate or share certain rights and responsibilities for the education of students from the Joseph Bighead Band.

(h) To provide the Indian Government of the Joseph Bighead Band with the power to recognize and support the authority and jurisdiction of Indian Education Acts and other Indian Government legislation, enacted by other Indian Nations Governments.

(i) To provide Indian Government with the power to promote the creation and implementation of an academic, social and emotional environment, at all levels, that is consistent with Indian culture, society, values, beliefs, history, traditions and languages (Joseph Bighead Indian Education Act, 1987).

The subsequent sections of the Act reflect these principles, by determining the composition of the appointed Board of Education and what the powers and duties of the Board "may" or "shall" be (ibid.).

With the passage of the Education Act in January, 1987, the Band Government appointed seven Band members to the Board of Education: six of whom were either non-political employees of the Band or a citizen-at-large, and one Headman (H. French, 1988).

The transition from being a School Committee, with limited advisory powers, to that of a Board of Education, with clearly defined powers and duties, occurred gradually and without a great deal of "role shock" (King, 1987). All of the Board members took an active part in the creation of the Act and have not only a broad understanding of their responsibilities internally, but a political awareness of what the Act is intended to accomplish in terms of establishing Indian Government jurisdiction and sovereignty over the education of their children. The

Board was also fully informed of the negotiations that were taking place respecting the proposed Transfer Payment Agreement (French, E. Sundown, 1988).

The most significant feature of the Joseph Bighead Education Act and of the other four that have been ratified, is that the source of power is internal. No external jurisdiction has been identified as having authority over either the internal or external affairs of the Band. This includes both non-Indian and Indian Governments.

Relations with the Meadow Lake Tribal Council were severed on November 7, 1988, and relations with the Federation of Saskatchewan Indian Nations were severed on January 10, 1990 (Band Files, 1988 and 1990; see Appendices C. and D.). The consequence of this action was that the Joseph Bighead Band became completely independent of any political or program affiliations with any Indian organization.

According to one of the Headmen:

> The Tribal Council and the Federation were doing things that were against our Treaty ... they were selling out. They were also causing us trouble by getting between us and the Department (of Indian Affairs) and Health and Welfare. The Federation Chief even critized us in the paper, without even calling us to find out what the truth is. That's not Indian Government the way they we want it (J. Sundown, 1990, brackets added).

An important feature of the Joseph Bighead Band's statement about its internal and external powers, is that the process was carried out totally within the parameters set by the Band Government and the Band members. No outside agency, Indian or non-Indian, was asked for their opinion. As the Chief and Headmen explained:

> We needed to write down our laws, based on our beliefs only ... the Treaties and our rights as the first people. That's why we spent so much time with the Band members, and translating everything into Cree. Everyone needed to understand before we could finalize our laws. This was Indian business and not Indian Affairs

business (E. Sundown, P. George, 1988).

By unilaterally defining their jurisdiction in a comprehensive and systematic way, the Joseph Bighead Band both clarified their beliefs in their collective and individual rights, and they challenged the Canadian structures of control that dominate them.

The figure on page 111 illustrates how the principles of sovereignty and paramountcy were created internally within the structure of the Joseph Bighead Band and how they relate to external governmental and non-governmental institutions (Education and Convention Acts, 1987).

Strategy for Change

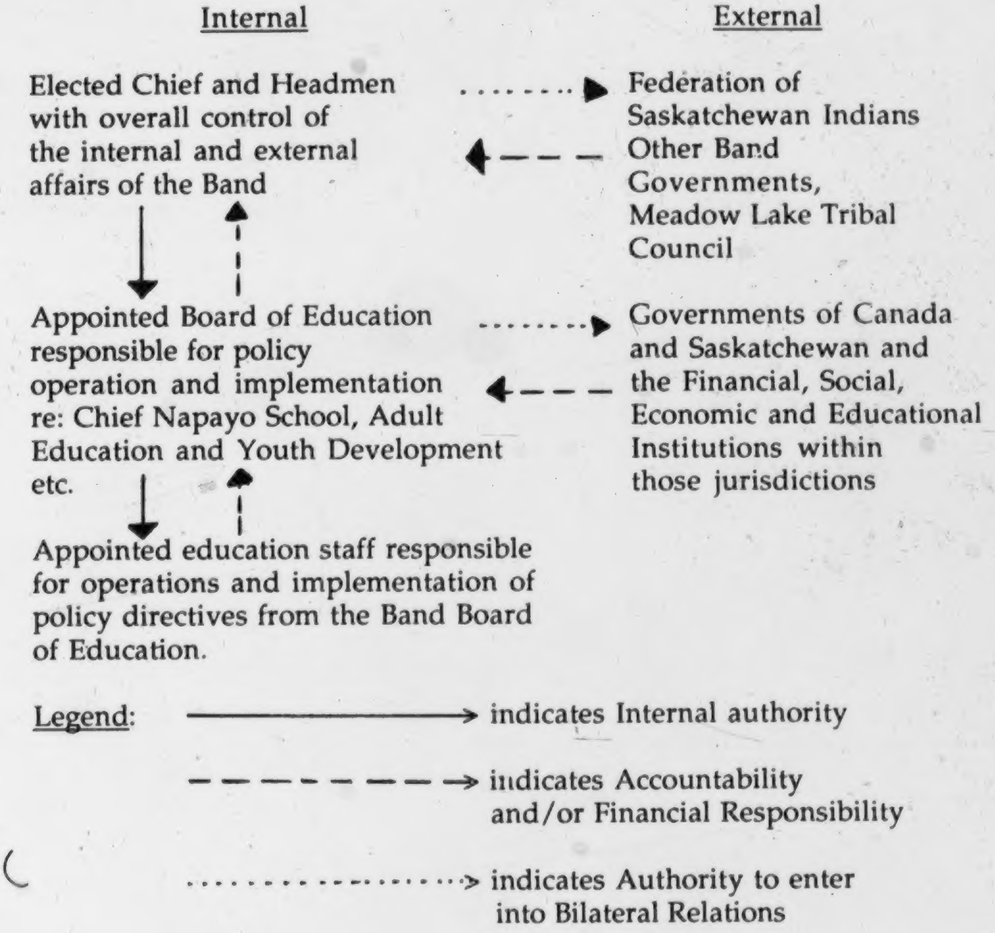
Faced with the social, economic and political realities of external domination, the Indian Government of the Joseph Bighead Band decided to attempt to resolve the problems the Band membership was facing.

The first priority was education, and as a first step they took over the operations of the Federal school in July of 1985 (E. Sundown, 1989).

Under the terms of the transfer, the Band received financing from the Federal Government according to the terms set out in the Contribution Arrangement Document (CAD). As was described in chapter 3., the terms and conditions of the CAD are determined by the Department of Indian Affairs, based on the authority of the Indian Act, the Financial Administration Act and Treasury Board Minutes. In this case, the CAD is an administrative instrument used by the Department of Indian Affairs to disburse funds from the Meadow Lake office of the Department to the Band for any given fiscal year. According to Departmental regulations, the CAD had to be signed by the Band, or the Department could not legally forward any money to the Band. The only alternative the Department had was to enter into Interim Arrangements, which would cover three months at a time (J. Michaels, 1990).

The Interim Agreement created problems for the Band, however, because it was based solely on the budgetary commitments of the previous fiscal year and did not take into account any price and volume increase for the upcoming 1987-1988 fiscal year. This restriction would have had a serious impact on a program such as education, particularly when pay increments were due to staff and because additional staff were warranted due to an increase in the number of students (H. French, 1990).

Figure 5.0 Joseph Bighead Authority and Jurisdiction: Education



Internal

External

Elected Chief and Headmen with overall control of the internal and external affairs of the Band

Federation of Saskatchewan Indians Other Band Governments, Meadow Lake Tribal Council

Appointed Board of Education responsible for policy operation and implementation re: Chief Napayo School, Adult Education and Youth Development etc.

Governments of Canada and Saskatchewan and the Financial, Social, Economic and Educational Institutions within those jurisdictions

Appointed education staff responsible for operations and implementation of policy directives from the Band Board of Education.

Legend:

——————→ indicates Internal authority

— — — — — — → indicates Accountability and/or Financial Responsibility

··················> indicates Authority to enter into Bilateral Relations

Upon review of the 1986 - 1987 CAD, as prepared and forwarded by the department, the Indian Government of the Joseph Bighead Band decided not to sign. The reasons for not signing were not based on the dollar amount allocated to each budget item, but rather on the terms and conditions of authority and accountability. The Indian Government identified 58 areas of concern in the CAD (Appendix A.). They ranged from objections to being labelled a "recipient" and an "agent" (accountable to an Indian Affairs employee for the delivery of programs to the citizens of the Band) to being subject to the Province of Saskatchewan Education Act (1978) and other laws of Canada in which they either had no knowledge of or expertise (E. Sundown, 1989).

The question then became one of jurisdiction in the eyes of the Band, and the preeminence of their inherent rights and the recognition of nationhood as affirmed by Treaty #6 (E. Sundown, 1989). In other words, the Government of the Joseph Bighead Band made a political decision to address the social and economic concerns of the Band. This decision was based on the Indian Government Principles of Band sovereignty and autonomy and the Band's desire to enter into a fiscal relationship with Canada based on the bilateral relationship guaranteed them by Treaty. The Indian Government was not willing to enter into an Interim Arrangement with the Department, unless the labels "recipient" and "agent" were removed from the wording of the CAD, and a "without prejudice" clause was included in the CAD. The Interim Contribution Arrangement, 1986-87, between Canada and the Joseph Bighead band, Section K., includes the "without prejudice" clause, which states that:

> this Agreement shall not prejudice the efforts of the Band and the Department to continue negotiations in the following areas: 1) nature of terms and conditions of the Agreement; 2) improve funding levels for all programs; 3) implementation of Indian Government, and shall not be construed so as to abrogate or derogate First Nations Treaty, Aboriginal and Inherent Rights (Band Files, 1987).

The Indian Government did not make this decision by itself, which is necessary to appreciate the social and political processes of the Band. Three General Band Meetings were held, at which the reasons or intentions, for wanting to take this step were discussed as were the possible consequences. Among these consequences was the possibility of having to close the school and the Band Office. In essence the business and programs of the Band would cease and the employees would have to apply for Unemployment Insurance or welfare, depending on their job status (E. Sundown and P. George, 1989).

The support of the citizenry was unanimous. With this support, the Indian Government announced its demands to the Department of Indian Affairs (E. Sundown, 1989). The core of the Band's demands to the Department included: 1) that all fiscal agreements were to be entered into on the basis of equality and the mutual recognition of each parties exclusive jurisdictions and the "fiduciary duty" obligations of the Crown, as that trust derived from the Guerin decision (Guerin v. The Queen, SCC, Nov.1, 1984); and 2) the ultimate accountability of Indian Government to the citizens of the Band (Band Files, 1987).

The proposed Transfer Payment Agreement put forward by the Band was consistent with the Band's Convention Act, Section 4., that:

> The Government and procedures confirmed by this Convention Act, will be governed primarily by Indian law and custom, and connected with Indian tradition and culture, unless Anglo - Canadian law and custom are expressly adopted by the Band (Joseph Bighead Band, 1987, Emphasis added).

and the corrollary Section 3.(a) of the Band's Education Act (1987), which restates this same principle.

These statements are based on both the Band's definition of their jurisdiction over their internal affairs, and their authority to decide what external authorities, standards or policies will be recognized by the Band. In the case of basic curriculum standards and teacher accreditation, the Joseph Bighead Indian Government, on the recommendation of Board of Education, has adopted the guidelines set out in Section 32. of the Regulations attached to the Saskatchewan Education Act (RSS, 1985). From the Band's point of view this procedure is consistent with their rights to decide which Canadian and Saskatchewan laws they will recognize (E. Sundown, 1989).

Initially the negotiations with officials from the Department of Indian Affairs were productive and progress was made on the questions of jurisdiction and accountability. By January, 1987, a "Proposed Transfer Payment Agreement (Draft #3)" had been worked out between the Band and the Department (Band Files, 1987). In addition to the "proposed" agreement on the administrative and financial accountability arrangements, there was a recognition of Band sovereignty. Under the "Responsibilities of the Band", sections 1. and 2. stated that:

> 1. The Band is responsible for delivering to

> its citizens the programs cited in the attached Schedules. These include the development of internal policies, laws and regulations, program specifications and standards, operational procedures and financial accountability criteria, that protect the health, safety and environment of the citizens and are consistent with the Band's principles of Indian Government.
>
> The above are cited in the following documents:
>
> (a) Joseph Bighead Band Indian Education Act and Regulations
> (b) Joseph Bighead Band Financial Management Act and Regulations
> (c) Joseph Bighead Band Personnel Management Act, Manual, Regulations and Codes
> (d) Joseph Bighead Band Convention Act
> (e) Joseph Bighead Band Election Act and Regulations
> (f) Maintenance Management Procedures Manual
> (g) Any other Legislation, Regulations, Codes and Procedures that may from time-to-time be required.
>
> 2. The Band is responsible for the establishment of effective decision-making processes and internal management and administrative systems, with clear lines of accountability to the citizens of the Band for the quality and costs of the programs delivered (Band Files, 1987).

In February, 1987, however, the Federal Justice Department became involved. They deleted from the proposed Transfer Payment Agreement, all references to Indian law under the exclusive jurisdiction of Indian Government and replaced it with terminology that again emphasized the external political and economic control of Canada.

In August, 1987, the Justice Department said that in any Joseph Bighead Band - Indian Affairs Agreement:

> The Band must have demonstrated a capability

> to administer such services and programs in accordance with the terms and conditions established by the Treasury Board and the Department (of Indian Affairs) ... (and) ... The Band shall be given the formula for funding (by the Department of Indian Affairs) (Band Files, 1987; brackets added).

From that point on the Department of Indian Affairs adopted the Justice Department's approach and refused to cooperate with the Band in developing a new relationship. A meeting between the Band and the Department of Indian Affairs, on November 3, 1987, reversed the progress that had been made. All of the attempts made by the Band to include their inherent and Treaty rights in the CAD were attacked by the Department as being illegal. As one of the former Headmen recalls:

> The Department went back on its word to cooperate with us. They said they would not talk about anything that had to do with our right to run our own affairs (sovereignty). They said that they would not sign another CAD, and they said that if we did not sign the CAD they had prepared, the money would stop and all of our Band programs would be shut down ... The Band Office, the school, everything.
>
> We asked them how people were going to live if they shut us down, and they said that the Department would put everyone on welfare ... even the Chief and Headmen ... and they would pay to heat the buildings.
>
> We told them that if they were going to do that, then they were going to have to run the school so the kids could get an education. They said they weren't going to do that either, because they didn't have the staff. And that they would enter into an agreement with the Provincial system to educate our children ... and that they had the authority under the Indian Act to do that.
>
> Really, what they did was threaten us. They control our money and unless we agree to their

> rules they'll cut us off. They don't care about the Treaties or what we're trying to do here. They only care about their own system and their jobs (P. George, 1990, brackets added).

Recalling that same incident, the Chief of the Joseph Bighead Band stated that:

> The Department says that we have to be responsible to our Band members, while at the same time they force us to deliver and administer all of the programs according to their rules and regulations.
>
> We (the Chief and Headmen) have discussed this with the (Band) members and the Elders, and they have told us to keep on working to get the Department to recognize us as equals.
>
> The way the system is now, the Band Government gets caught in the middle. The members elect us and expect us to provide certain services, and the department transfers our operating funds and expects us to account to them for everything we do. The Band Government does not like to be in the middle all the time. We are forced to wear two hats.
>
> That wasn't our traditional way and that is why we want to change the system to one where the Department can't threaten us. Our Treaties with the Crown don't say anything about the Cree people giving up the right to govern themselves and we want the Government to recognize that. Our people have told us to work on that area, and that is why we began writing our own laws.
>
> The Government won't recognize our laws. We are trying to do the best we can for our members, in terms of education, jobs and housing, and to get them off welfare. The Department controls our funding and has all the laws of Canada behind them, and says that if we don't do it their way they will use those laws to cut off our funding, put us all on welfare and put our

> students in the Provincial system. The Department talks about Indian Control of Indian Education and Band Self-Government, but it is all according to their laws not ours. They want to keep control of us.
>
> That is why we started to make laws that would honour our Treaty No. 6 and recognize our rights to govern ourselves. We want Canada to enter into agreements with us that are bilateral, not one-sided; where their laws count and ours don't. The people are together on this (E. Sundown, 1990, brackets added).

These statements reflect many of the ideas in the models put forward by Hechter (1975) on internal colonialism, and Scott (1985) on resistance. Hechter's assumption of economic dependence and his variable on administrative integration and the applicability of Canadian law to the Band came through clearly in these two statements (1975: 349). Scott's argument that resistance is as much an "ideological struggle" to survive culturally, as it is an organized opposition to the structures of domination (1985: 290-301), is clear in these two statements as well.

Interviews

In order to determine how extensive the ideological support was for the structured resistance, I asked the Joseph Bighead Band Government and Board of Education for permission to collect information directly from students, parents and Elders who were living on-Reserve.

The authorization to carry out this aspect of the research was granted, with the provision that I would be required to comply with the Band's Code of Ethics regarding researchers (Appendix E.). I agreed to this condition and collected the information between May and August, 1989. Altogether 104 Band members were contacted: parents (42) (in 28 homes), Elders (6) and students (56). Except for the students, and some of the parents, the interviews were one on one and ranged from one hour to three hours in length. The students, aged 10 to 18, were contacted in their classrooms, in groups of 21, 14, 12 and 9 in size. English was spoken in all of the interviews, except with the Elders, where an interpreter was present at all time.

The responses of the informants were consistent with the ideological position of the Band Government to confront their asymmetrical relationship with Canada, by opposing the structures that dominate them (see Appendix F. for the questions asked and a summary tabulation of the responses).

Commenting on the question about Band Government and what they were trying to accomplish for the Band, one of the Elders said:

> Indians and Canadians don't believe the same things. You listen to politics ... the whiteman's politics ... and he believes that economic development is the most important thing ... that it is number one. Number two is politics, because if economics are pretty good I'll get re-elected. You know, the whole thing about there being jobs and people are satisfied. So the whiteman plays his politics to fit the economics. The third one is humanity. The whiteman believes that you only look after the poor people if the politics and economics are good. If we have money and the politics are okay, then we can look after the people. The fourth one is spirituality. The whiteman thinks that if the politics are good, and people have jobs and the poor people are being looked after, then he has time to go to church and thank the Almighty.
>
> The Indians do it the other way round ... the opposite. First the spirituality, then the humanity, then the politics, then the economics. That is the way we saw things as being important before the whiteman came and that is how we see things now. But because of this difference we are controlled by the whiteman and we have nothing. That isn't what our Treaties said would happen.
>
> The Chief and Council are trying to change that ... so that the Treaties are honoured and that our traditions, beliefs, language and culture can be strong. I think that making our own laws ... that will make us stronger ... what the Chief and Council are doing will help us get our rights back. This wasn't our way ... to write everything down, but it is our way now ... the law. These

> laws ... education and the others ... in our own language ... will show Indian Affairs that we can run things ourselves. They will have to change their laws so that we are equal (June, 1989).

This ideological support for the resistance to structures of domination is also reflected in comments from a student and a parent.

The student said:

> The Chief and Headmen, and the Board of Education should make all of the decisions about education in our school ... I agree with what the Council is doing to get the Government to recognize our rights as the first people here (May, 1989).

And a statement from a parent further demonstrates the ideological support of the Band members for the actions of the Band Government:

> I think the curriculum should be set by the Band Government and the Board of Education ... with cooperation from the Provincial Government. But the final decision in everything must be the Band's, not Indian Affairs or anybody else. The Band Government understands the Reserve. The Band Government and the Board of Eduction are the key to the future. The Cree language and our history and culture should be taught in the school, and the non-Indian teachers should learn the Cree language.
>
> That is what we have an Education law for. To do this and to force the government to recognize our rights and to honour our Treaties ... I think the Chief and Headmen are doing the right thing ... not signing some of those agreements until the government recognizes our special rights and begins to agree that we have special rights as Cree people (July, 1989).

Conclusion

The resistance of the Joseph Bighead Band to the structures of domination is, following Scott's definition, "real", not "token" (1985: 292).

Token resistance would have been disorganized, self-serving and accommodationist in its intent and consequence. The "real" resistance of the Joseph Bighead Band, on the other hand, is organized, based on clearly defined principles, revolutionary in its anticipated outcomes, or consequences, and is intended to "negate the basis of domination itself" (ibid.).

The organization and principles of the Joseph Bighead resistance are reflected in the self-defined powers of its internally created Education Act, and other laws, and has the ideological support of the Band members. The negation of the structures of domination, according to the Band's objectives, would have revolutionary consequences. Using Hechter's model to analyze the expected "revolutionary" outcomes, two of the variables, "geographic contiguity" and "length of association" between the dominant and subordinate cultures, would not change. The other variables, however, would need to be reinterpreted. The Joseph Bighead Bands policies and management decisions would no longer be "administratively integrated" with those of the Federal Government. Their "citizenship status", as measured by their "civil, political and social rights", would no longer be determined by the superordinate culture. Treaty #6 would be regarded as an international Treaty and not a domestic Treaty. And the "prestige" of the Joseph Bighead Band, in terms of educational and economic success, would be within the control of the Band, and not the Federal Government of Canada (1975: 349). The ultimate consequence of the resistance would be the elimination of the Joseph Bighead Bands subordinate status as an internal colony of Canada, and its transition to nationhood, with the right to interact politically with Canada as equals. Resistance is necessary to change their relationship with Canada and to preserve their culture.

CHAPTER 5.
DISCUSSION AND IMPLICATIONS

The consequences of the Joseph Bighead Band's resistance against their status as an internal colony were not the outcomes the Band anticipated. The power of the Department of Indian Affairs to dominate politically and economically the Joseph Bighead Band, suppressed the Band's goal of achieving parity with the Federal Government.

What this research has demonstrated is that an analysis of the "core ... specific realities of asymmetry, inequality and domination" (Ortner, 1984: 147), reveals the historical basis for the social and structural imbalance between the Joseph Bighead Band and the Federal Government.

The internal colony model developed by Michael Hechter (1975) is applicable to an analysis of the Joseph Bighead Band's relations with Canada. Compared to the other models of colonialism and internal colonialism, Hechter's model is particularly useful in describing the specific social, political and economic realities of life for the Joseph Bighead Band. Hechter's "variables" provided me with the analytical framework to describe the historical and contemporary conditions of their asymmetrical relationship with Canada. The inclusion of other authors like Blauner (1969) and Ogbu (1978), et.al., helped me to more accurately explain Hechter's variables on legal and administrative integration, the individual and collective civil, social and political rights of the Band, and the prestige of the Band in times of wealth and success.

The major limitation of Hechter's model is that it does not adequately account for the resistance of minority groups to external domination, and the ideological and cultural reasons for resistance (Smith, 1981: 36). However, the inclusion of the resistance theories of Giroux (1983) and Scott (1985) helped me to describe the ideological and cultural reasons and purposes of the Joseph Bighead Cree opposition to their social, political and economic relations with Canada.

For my purposes Hechter's model shows the specific realities of inequality of the Joseph Bighead Cree. The Band and its individual members are economically dependent on the Federal Government for their existence. The Band's operations are administratively controlled by the laws of Canada. The civil, political and social rights of the Band members are not equal to those of non-Indian Canadians. The prestige of the Band, in terms of economic and social success and power, is less than that of the superordinate culture. The Joseph Bighead Reserve is geographically contiguous with Canada, and there is a two hundred year historical association between the two cultures, but less than 80 years of treaty life.

In addition to identifying the specific characteristics of inequality, the use of Hechter's model provided a substantive body of knowledge that identified the specific features of the asymmetrical relationship to which the people of Joseph Bighead were opposed. This study shows that the resistance of the Joseph Bighead Band to domination by the Federal Government was "real" (Scott,1985). The development of their own Education Act was based on their self-defined claim to sovereignty, and the anticipated outcome was equality in their relations with Canada. The political strategy of securing community wide support for the resistance, was based on the belief that a consensus of opinion was required before the Band Government could act. Both the positive and negative consequences of the resistance movement needed to be understood by everyone, in order to guarantee a unity of purpose. By doing this, the Band Government ensured that there would not be any indecision on the part of the Band members to what they were doing. The field research information supports this conclusion, and shows that although their attempt at changing the relationship failed, there is a continuing belief in their inherent right to totally control the education of their children. Full control means having the sovereign power to determine all aspects of the education of their children.

This study of the Joseph Bighead Band shows that the structures of power in Canada operate to dominate the social, economic and political features of Indian culture. And in the case of education, the legislative and administrative policies of the Federal Government are a continuation of policies formulated in the mid-19th. century. The system of controls and dominance are congruent with the structures of an internal colony that continues today, with the approval of the Federal Government.

Canadian Indian policy is formulated through a central agency of the Federal Government, and is applied universally to all Indians in

Canada, even though there is great variability among Indian Nations. The case of the Joseph Bighead Cree demonstrates that their efforts to achieve sovereignty struck at the very heart of the legal and political control that the Department of Indian Affairs and the Minister of Indian Affairs have over Indian education. Although the resistance of the Band to these controls was "real" and not "token", the power of the state stopped the Band from achieving its intended outcomes, or consequences.

The failure of the Joseph Bighead Band to achieve its goals, because of the Federal Government's resistance to change, is not unique in Canada. In recent years, the Innu of Labrador, the Lubicon Lake Band in Alberta, the Mohawk of Kahnawake and Kanasatake in Quebec, and the Gitskan and Wet'suwet'on of British Columbia have resisted the Federal Government and failed. The relationship between each of these Indian Nations and the Federal Government is asymmetrical.

As mentioned in chapter two, colonial theory emphasizes that any colonial relationship is asymmetrical, and that the subordinate group has very little influence over the policies and practices of the dominant group. Also, theories of internal colonialism emphasize asymmetry and the hegemony of one culture over another, but within the context of independent industrial states. The power of Canada over its internal colonies, the Indian nations, has allowed Canada to resist any changes to the structures of power that dominate Indian people.

The failure of the Joseph Bighead resistance movement has not stopped the Band from continuing to make education a high priority. The Board of Education is taking on more and more authority for the staffing and programming that goes on in the school. The K-12 facilities are now complete, and the student enrolment and attendance rates continue to rise. The Board and education staff are also studying the most appropriate ways to introduce the Cree history, culture and language into the school curriculum, and the school has become a community centre for adult education classes.

One of the most significant effects of the resistance movement, from rejecting the conditions of the CAD, to the ratification of their own Education Act and the unsuccessful attempt at changing their relationship with the Federal Government, is the continuity of belief in their right to govern themselves. The Joseph Bighead Education Act is used by the

Board and administration to guide the internal policy making and management of the education system. It forms the basis of an internal structural development, or innovation, that did not exist prior to 1987, and was then used to negotiate sovereignty. The Joseph Bighead Education Act is a cultural innovation that responds to the realities of their asymmetrical relationship with Canada. Failure to negotiate the Acts recognition by the Federal Government has neither stopped the Band from using the Act internally, nor has it changed their belief in their inherent right to equality with the Federal Government of Canada. This ideology is exemplified in the comments of one of the Headmen:

> We made the education law to do a couple of things. First we had to find out what the Band members wanted, because in the past we did not write down our laws. The people said we should write down our laws, but to make sure they were our laws only. That's why we wrote the laws in English and Cree ... to make sure everyone knew what had been written down.
>
> Then we had to meet with Indian Affairs to get them to agree to recognize our rights. They didn't agree. They said the law was against us. Whose law? We didn't agree to those laws, but they use them against us. The only laws that count are the ones we make for ourselves ... the ones the people want.
>
> You know, there are more people working in Indian Affairs then there are in this whole Band. I wonder what they're afraid of? (July, 1990).

This statement summarizes the conflict between the Joseph Bighead Cree, and probably all Indian Nations in Canada, with the Federal Government of Canada. "The specific realities of asymmetry"(Ortner, 1984: 147) are that the social, legal, political and civil rights aspirations of the Joseph Bighead Band are subordinate to those of the Federal Government. Equality is not possible within the existing relationship.

As one final comment, it is clear from this research that if Federal bureaucrats are sitting across the negotiating table, the jurisdictional conflicts between the Joseph Bighead Band the Federal Government will never be resolved to the Band's satisfaction. Both sides have different agendas. The Band wants sovereignty within the nation state, and the bureaucrats are bound, by the Indian Act, to enforce the structures of control. One wants a revolution in order to break out of their subordinate position, while the other wants to maintain the power to determine who Indians are, how they will manage themselves, and what kind of education they will receive. One wants an ideological revolution that will eradicate the institutionalized structures of control and recognize their aboriginal right to be self-determining, while the other wants to maintain the status quo.

According to Harold Cardinal, this failure to recognize aboriginal rights amounts to racism:

> Legal and government institutions which don't consider Indian rights are a major barrier to improvement ... (and) ... Institutional racism is probably the most invidious, most insidious, and probably the most dangerous of all kinds of racism (March 4, 1991, brackets added).

At the core of the problem is inequality. The problem is systemic and it has its roots in the history of Canada. It was created by a political decision during the period of colonial government in Canada, and will only be resolved by a political decision today. The political power to make that decision rests squarely on the shoulders of Canada's political leaders.

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APPENDIX A.

The Joseph Bighead Band's analysis of the 1986-87 Contribution Arrangement, prepared by Indian and Northern Affairs Canada, included the following items which the Band questioned:

> "Unemployment Insurance Act; Canada Pension Plan Act; Income Tax Act; Workmen's Compensation Act; TB Minute 793872; Financial Administration Act; Forms SD102 A and B; Circular H-9; Membership Guide for Administrators; Vital Statistics Act of Saskatchewan; Privacy Act, Sec.8; Circular E-12; Residency requirement: on or off-Reserve; Highway Traffic Board Regulations; Insurance Coverage, liability; Treasury Board approved levels - library; Federal Collective Agreement - Indian language instructors; Saskatchewan Department of Education - Certification of Curriculum, Standards, Certification of Students, Certification of Programs, Certification of Teachers; Saskatchewan Board of Teacher Certification; Saskatchewan Education Act; Ratification of Tuition Agreements by INAC; Dominion Fire Marshall, Act and Standards; Capital facilities, Departmental control; Social Development Manual, 'relevant' guidelines and directives; 'Needs Test'; Surplus funds, social development; Employee accreditation; Pension Benefits Standards Act, Federal and/or Provincial; Department of Insurance Canada, or Provincial equivalent; Revenue Canada; Canada Pension Plan; Treasury Board Canada, reciprocal transfer agreements; Circulars D-5 and D-5.1; Debt retirement; Deficit recovery; Canada Mortgage and Housing; National Building Code; Dwelling and Fire Inspection Report; Band Technical Pub. FS-7, Inspection and Maintenance of Fire Equipment; Fire Reports 451, 453; Fire Protection Site Inspection Report(1A 1328 C8-82 and 7530-21-136-8116); Vehicle and Machinery Detail Form; Capital Assets Inventory Component Detail Form; C.S.A. Standards; Operational and Funding Handbook for the Community Infrastructure and Educational Facilities, Operations and Maintenance Program; DRM 10-7/18 Section 5-O&M; DRM 10-7 Series, O&M; **"Regional Policy"**."(Band Analysis of CAD, October 27, 1986, emphasis in original).

APPENDIX B.

AN ACT RESPECTING EDUCATION FOR THE JOSEPH BIGHEAD BAND OF THE CREE NATION

SHORT TITLE

1. This Act may be cited as the Indian Education Act, 1987, Joseph Bighead Band

INTERPRETATION

2. In this Act:

(a) "Allowable school age" means the age at which a student may participate in the education system;

(b) "Band" means the Joseph Bighead Band;

(c) "Band Member" means a citizen of the Joseph Bighead Band;

(d) "Board" means the Board of Education of the Joseph Bighead Band;

(e) "Chairman" means the Chairman of the Board of Education;

(f) "College" means a post-secondary institution that provides university level programs of study, or in which research is undertaken;

(g) "Compressed school year" means a school year in which the total number of school days is less than those in a school year, but during which the same amount of instructional time is taken by the students;

(h) "Compulsory school age" means having attained the age of seven(7) years, but not having attained the age of sixteen(16) years;

(i) "Crown" means the Crown, Her heirs and successive Governments;

(j) "Education system" means those educational facilities, education programs and services that are delivered by the Indian Government of the Joseph Bighead Band under the authority of this Act;

(k) "Elder" means an Elder of the Joseph Bighead Band;

(l) "Federal Government" means the Government of Canada;

(m) "Fiscal year" means the 12 month period between April 1st. and March 31st.;

(n) "Guardian" means a person who is not the natural parent of a child and who is responsible for the care of the child;

(o) "Guardian Agency or Guardian Institution" means any agency or institution that assumes the status and role of a guardian for any child or student in its care;

(p) "Indian Nations Government" means any other form of Indian Government, whether it is at the Band, Tribal, District, Agency, Territorial, Provincial, National, or International level;

(q) "Indian Government" or "Executive" means the Chief and Council of the Joseph Bighead Band;

(r) "Institute" means a post-secondary institution that provides training in the trades, professions and arts, and other community related training, or in which research is undertaken;

(s) "Post-school" means a program of studies offered to students who are not participating in either the N/ - 12, College or Institute programs;

(t) "Pre-school" means those children whose age is below the established age for entry into nursery or kindergarten;

(u) "Program" means a course of studies offered to students at the pre-school, N/K - 12, College and Institute levels;

(v) "Provincial Government" means the Government of the Province of Saskatchewan;

(w) "School" means the lands, physical facilities and programs offered to students enrolled in the education system under the authority of this Act;

(x) "School year" means the total number of school days between the period from July 1st. to June 30th.;

(y) "Student" means any person enrolled in an education program under the authority and jurisdiction of this Act;

(z) "Treaty" means the Treaty No.6 agreement entered into between the Joseph Bighead Band and the Crown, by adhesion to the said Treaty at Waterhen Lake on June 25, 1913, guaranteeing schools and the Treaty right to education for the Band and individual members of the Band, no matter where their place of residence may be;

PURPOSES AND PRINCIPLES

3. The purposes and principles of this Act are:

(a) The structures, organizations and procedures confirmed by this Education Act will be governed primarily by Indian law, and custom and connected with Indian traditions, and culture, unless Anglo-Canadian law, and custom are expressly adopted by the Indian Government of the Joseph Bighead Band.

(b) To implement our Treaty with the Crown under the jurisdiction and authority of the Indian Government of the Joseph Bighead Band. Should any inconsistencies or conflicts arise between our Treaty and this Act, the Treaty shall take precedence over this Act in all instances.

(c) To promote the following principles:

i. that in all matters the Band and its Indian Government is paramount;
ii. that in all matters the Band and its Indian Government is sovereign;
iii. that the Indian-Crown Trust relationship shall be maintained and is grounded in our Treaty No. 6 with the Crown, the Royal Proclamation of 1763, the Constitution Act, 1867, Section 91(24) and the Constitution Act, 1982, Sections 25 and 35(1) which recognize and entrench our Treaties.

(d) To establish an education system to serve the educational needs of the Joseph Bighead Band that is consistent with the spirit and intent of our Treaty with the Crown.

(e) To empower Indian Government with the right to provide the facilities, programs and procedures, equipment and personnel necessary to the management and operations of the education system.

(f) To estabish educational standards and curricula that promote and enhance the education of Indian students.

(g) To provide Indian Government with the powers to delegate or share certain rights and responsibilities for the education of students from the Joseph Bighead Band.

(h) To provide the Indian Government of the Joseph Bighead Band with the power to recognize and support the authority and jurisdiction of Indian Education Acts and other Indian Government legislation, enacted by other Indian Nations Governments.

(i) To provide Indian Government with the power to promote the creation and implementation of an academic, social and emotional environment, at all levels, that is consistent with Indian culture, society, values, beliefs, history, traditions and languages.

BOARD OF EDUCATION

4. A Board of Education will be established, that will be subject to the authority of this Act as prescribed by the Indian Government of the Joseph Bighead Band.

APPOINTMENT OF THE BOARD OF EDUCATION

5. (a) The Board shall consist of seven(7) members appointed by the Indian Government of the Band;

(b) The Chief, or an alternate appointed by the Chief, shall be an ex-officio member of the Board.

QUORUM AND VOTING

6. (a) A quorum of the Board shall be four(4);

(b) A resolution or regulation passed by a majority of the members present at a regularly scheduled or duly posted meeting of the Board, at which a quorum is present, binds all members of the Board.

TERM OF OFFICE

7. A person appointed as a member of the Board shall hold office for a term not exceeding four(4) years, to be reviewed annually according to the custom of the Band.

VACATION OF OFFICE

8. A person ceases to be a member of the Board when he/she:

(a) submits his/her resignation to the Indian Government;or,
(b) is removed from office by Indian Government.

VACANCIES

9. (a) Vacancies on the Board shall be filled according to Article 5(a) above;

(b) A vacancy among the appointed members of the Board does not impair the authority of the remaining members of the Board to act, provided that a quorum of the Board is in attendance;

(c) Where the vacancies on the Board render the Board ineffective, as determined by the Board and the Indian Government, the Board and the Indian Government shall determine an interim arrangement.

VALIDITY OF ACTS OF THE BOARD

10. Provided that each member of the Board has been properly appointed and that they have not been disqualified for any reason:

(a) All acts of the Board are valid; and,
(b) The acts of a Committee of the Board are valid.

CHAIRMAN AND VICE CHAIRMAN

11. (a) The Board shall, from among its members, appoint a Chairman, who shall report to the Indian Government.

(b) The Board shall, from among its members, appoint a Vice-Chairman, who, in the event of the disability or absence of the Chairman, has all the powers and shall perform all the duties of the Chairman.

REMUNERATION

12. The Members of the Board:

(a) May be paid remuneration for the performance of their duties as members of the Board; and,
(b) May be paid travelling and living expenses while absent from their ordinary places of residence and in the course of their duties as members of the Board.
(c) The rate in 12(a) and (b) shall be prescribed by the Treasury Board of the Joseph Bighead Band.

MEETINGS

13. The Board shall make regulations subject to the review of Indian Government, regarding the calling of its meetings and regulating the conduct of business at them and, generally, regulating the conduct of its business affairs.

APPOINTMENTS

14. The Indian Government of the Joseph Bighead Band may, in consultation with the Board of Education, appoint representatives to other Boards and/or Commissions that are external to the Joseph Bighead Band.

15. The Board of Education may, in consultation with Indian Government appoint, and may financially support, staff of the education system to associations concerned with aspects of Indian education as sanctioned by Indian Government.

POWERS OF THE BOARD

16. The Board may, subject to the approval of the Indian Government of the Joseph Bighead Band:

(a) Maintain and keep in good order and condition the real property of the education system and erect or lease and maintain such buildings and structures thereon, as in its opinion are necessary and proper;

(b) Develop regulations, consistent with the Personnel

Management Act, for the appointment, classification, promotion, suspension, transfer, remuneration, reclassification or removal of staff of the education system, or by resolution, delegate to a Committee of the Board, the power to classify, promote, suspend, transfer, reclassify or remove staff;

(c) Notwithstanding 16(b) above, not appoint, classify, promote, suspend, transfer, reclassify, or remove from the staff, or delegate to a Committee of the Board, to undertake these activities, if such actions are in contravention with any section of this Act;

(d) Develop regulations for the design, development, delivery, monitoring and evaluation of programs, policies and procedures, with particular emphasis on the degree to which the achievement of a quality education program is being attained;

(e) Act as a trustee of any money, or property given or bequeathed for the support of the education system;

(f) Subject to the development of financial regulations, consistent with the Financial Management Act, and as approved by Treasury Board:

i. lay out and expend such sums as it considers necessary for the support and maintenance of the education system;
ii. borrow money from any person or enter into overdraft arrangements with a bank or treasury branch.

(g) Not incur any liability or make any expenditure that will have the effect of impairing the financial status of the Band, unless an estimate thereof has been submitted to and approved by Treasury Board;

(h) In accordance with this Act, provide for the establishment of educational facilities, standards and programs of instruction, on or off Reserve, or change existing educational facilities, standards and programs of instruction as the Board considers necessary and this may include the creation or establishment of institutions at the post-secondary level;

(i) Enter into joint or service agreements for the education of students from the Joseph Bighead Band;

(j) Enter into an agreement with another Board of Education to establish a Joint Board responsible for the education of students from the Joseph Bighead Band;

(k) Make provision for the establishment and maintenance of advisory councils, exhibitions, scholarships and prizes;

(l) Pass bylaws and regulations consistent with the powers conferred on the Board by this Act.

DUTIES OF THE BOARD

17. Nothwithstanding items (a) to (n) listed below and other sections of this Act, the Board of Education will have the overall authority and responsibility for the direction and operation of the education system. In particular the Board shall:

(a) Subject to the approval of the Personnel Committee, employ whatever staff is required for the delivery and management of the policies, programs and business of the Board;

(b) Prepare and transmit to Indian Government, for its approval, regulations respecting financial and personnel matters, that are consistent with the Financial Management Act and the Personnel Management Act of the Band;

(c) Prepare and transmit estimates of expenditures and revenues to Treasury Board. The estimates are to be prepared in a format as prescribed by the Treasury Board of the Band;

(d) Prepare and transmit, in a format approved by Treasury Board, an annual operating plan and a monthly variance report;

(e) Subject to the approval of, and as prescribed by Treasury Board, appoint one or more auditors to audit the accounts and transactions of the education system at least once in each school year;

(f) Keep proper records and minutes of it's proceedings and such other records as may be required;

(g) Take responsibility for the creation and implementation of curricula and programs of study that promote Indian culture, society, values, beliefs, history, tradition and language;

(h) At least once per year, conduct, in a manner approved by Indian Government, an operational and program review of the education system which documents student progress, system accountability, individual course relevance and effectiveness, promotion standards, grade and class achievement, and parent - teacher communication processes and submit the results to Indian Government;

(i) Conduct, or have conducted, on an annual basis, in a manner approved by the Personnel Committee,an evaluation of all personnel employed by the Board and submit the results to the Personnel Committee and Indian Government;

(j) Make available, subject to the approval of Indian Government, the regulations of the Board of Education;

(k) Encourage parental involvement by keeping the members of the Joseph Bighead Band informed of the business and activities of the Board;

(l) Ensure the business and affairs of the education system are conducted in accordance with this Act and it's accompanying regulations;

(m) Subject to the authority of Indian Government, secure protective insurance coverage;

(n) Formulate policies and regulations for the education system concerning its organization, administration, and operation. This shall include, but not necessarily be limited to:

i. Establishment of a Code of Ethics for the Board;
ii. Relations with other Indian Governments and Band Boards of Education, Elders, Guardian Agencies and Guardian Institutions, Tribal/District/Agency Governments and their Boards of Education, Indian Nations Governments, the Saskatchewan Indian Education Commission, Boards of Governors of Indian controlled Colleges and Institutes, Provincial and Federal Governments and their agencies and representatives;
iii. Establishment of the School Year and Compressed School Year;
iv. Relations with parents, students and guardians,

including policies and regulations regarding an

v. Relations with all personnel employed by the Board of Education;

vi. Establishment of Professional Development activities;

vii. Operation of a Library Resource Centre;

viii. Establish academic, curricular, capital and financial standards that reflect the needs and objectives of Indian education for students from the Joseph Bighead Band.

ACTION AGAINST THE BOARD

18. Notwithstanding Article 8(b), no action shall be brought against the Board, any Committee of the Board, or against any member thereof, on account of anything done or omitted to be done by them in the performance of their duties as prescribed under the authority of this Act.

PAYMENT OF TAXATION

19. Based on the authority and jurisdiction of our Treaty with the Crown and the Principles of Indian Nations Government, the Board and the education system will not be liable to any form of taxation by any Government for property real and personal of the education system.

AMENDMENT

20. The Indian Education Act of the Joseph Bighead Band will be reviewed at least once in each calendar year. All resolutions proposing an amendment will be presented by Indian Government to the Band Membership for its approval or disapproval.

COMING INTO FORCE

21. This Act comes into force on the day of approval of this Act by the Joseph Bighead Band.

SUPERCEDING LEGISLATION

22. This Indian Education Act will be superceded only by the Convention Act of the Joseph Bighead Band.

January, 1987.
May, 1987 (Amended).
December, 1988 (Amended)
March, 1990 (Amended)

APPENDIX C.

BAND COUNCIL RESOLUTION

WHEREAS pursuant to Article II, section (g) of the Joseph Bighead Convention Act (1987), the Band exercises the prerogative to either participate in the activities of the Meadow Lake Tribal Council, or not.

WHEREAS Article III of the Meadow Lake Tribal Council Convention Act (1987), "Fundamental Rights and Duties of the Bands", clearly states that the Bands are paramount and sovereign,

and further, s. 11, states that the Meadow Lake Tribal Council "will neither diminish the status of the member Bands, nor will it detract from their natural or inherent rights as Indian peoples."

WHEREAS since 1987, the Joseph Bighead Band has ratified five pieces of Indian Law (Convention, Finance, Personnel, Education and Elections Acts) and is now studying the first draft of its Citizenship Act,

further, since 1986, the Joseph Bighead Band has been attempting to enter into bilateral fiscal arrangements with the Crown, as represented by Indian and Northern Affairs Canada and National Health and Welfare.

WHEREAS the Meadow Lake Tribal Council has entered into arangements on the subjects of self-government and health transfers, which have had a negative impact on the goals and objectives of the Joseph Bighead Band.

WHEREAS the Indian Government of the Joseph Bighead Band has reviewed the MLTC-Canada self-government process and concludes that the focus is too closely aligned with the objectives of the Federal Government,

further, that we view this arrangement as having the potential to erode our Treaty rights, while at the same time not recognizing our inherent rights to govern our own affairs.

WHEREAS these arrangements by the MLTC are now being cited by Medical Services Branch as the reasons why they will not meet with us to negotiate new fiscal arrangements,

further, this situation has created a problem for the Band that is counter to the MLTC Resolution of September 25, 1986, according MLTC support to Joseph Bighead in its fiscal negotiations with the Crown.

WHEREAS the Band Indian Government has reviewed the established and proposed legislative basis of the MLTC, and in particular the August 24, 1988, "MLTC Re-organization Resolution" and concludes that the MLTC Convention Act is being ignored, and no action is being taken on the ratification of the Finance Act and the Personnel Act,

and further, that the established powers of the Judicial Commission and the Treasury Board are being ignored,

and further, that the August 24, 1988, Resolution indicates a centralization of power within the administrative branch of the MLTC that erodes the powers of the Boards and Commissions established through the authority of the Convention Act, to provide policy direction and ensure compliance with the spirit and intent of the Act.

BE IT RESOLVED, THEREFORE

that the Indian Government of the Joseph Bighead Band shall, on this day, withdraw it's membership in the Meadow Lake Tribal Council,

further, that the administrative and finance branches of the Meadow Lake Tribal Council shall immediately provide the Joseph Bighead Band with an audited accounting of the Band investment in all activity sectors of the MLTC, including a statement of future income levels that include the Joseph Bighead Band as a factor in the amount of money forthcoming,

and further, that these investments and funds will be returned to the Joseph Bighead Band within sixty(60) days.

BE IT FURTHER RESOLVED

that the Indian Government of the Joseph Bighead Band will immediately notify all Indian and non-Indian Governments and their agencies of this severance of relations with the Meadow Lake Tribal Council.

Original Signed by:

Ernest Sundown, Chief
William Bear in Hole, Headman
James Kahpeepatow, Headman

November 7, 1988.

APPENDIX D.

BAND COUNCIL RESOLUTION

WHEREAS the Executive Council of the Federation of Saskatchewan Indian Nations has entered into a bilateral arrangement with the Minister of Indian and Northern Affairs, in June, 1989, to establish the Office of the Treaty Commissioner, which will address Treaty issues regarding land and education,

further, that the Commissioner has powers only to recommend action to the Indian and Canadian parties to the Treaties,

and further, the Indian Government of the Joseph Bighead Band regards this Agreement as contrary to the powers of the Band to negotiate its own arrangements with the Crown, just as was done in the years prior to the Band entering into Treaty in 1913. The Band also regards the FSIN Executive Council's actions as being counter to the Indian Government principles of Band paramountcy and sovereignty.

WHEREAS the Department of Indian Affairs, on November 6, 1989, has developed a document entitled "Proposal for the Realignment of Services to Indian People in Saskatchewan" and that the major topics of this proposal are the Saskatchewan Indian Federated College, Social Assistance and Child Welfare,

further, that at no time does this document cite the Treaties, the inherent rights of Indian Governments or the Office of the Treaty Commissioner, in its attempt to further undermine Indian Treaty Rights and tighten the Federal Governments control over Indian people,

and further, the Indian Government of the Joseph Bighead Band regards this Federal action as being in bad faith and indicative of Canada's real objective to ignore our inherent rights to do away with our Treaty rights and to implement the terms and conditions of the 1969 White Paper,

and further, that given this Federal initiative, any agreement between the FSIN Executive Council and the

Minister of Indian Affairs on the matter of Treaty rights such as land and education, is seen as a threat to the sovereignty of the Joseph Bighead Band, and cannot be tolerated.

WHEREAS the Chief of the Federation of Saskatchewan Indian Nations, Roland Crowe, has shown his disrespect for the sovereignty of the Indian Government of the Joseph Bighead Band in its collective decision to join the Treaty Alliance of North American Aboriginal Nations, particularly as it supports the struggles of the Innu of Labrador and the Lubicon of Alberta,

further, that Chief Crowe's statements in the Saskatoon Star Phoenix were made without his having communicated with the Indian Government of the Joseph Bighead Band.

WHEREAS the FSIN Convention Act, Article III, "Fundamental Rights and Duties of Bands", clearly states "The fundamental rights of the Indian Governments of the Bands, and their District/Agency Councils, including their political autonomy, shall not be impaired in any manner whatsoever by this Act,

further, in Article III, it is clearly stated that the purpose of the legislation is "to provide for common action and to promote by cooperative action the political, economic, social and cultural development of the Indian Governments of the parties, and not to diminish their status as Nations and of their natural and inherent rights by the act of entering into this Act",

and further, that the Joseph Bighead Band believes that by the Executive Council's cooperation with Canada, on Treaty rights, and by Chief Crowe's adversarial position on the decision of the Joseph Bighead Indian Government, the Executive Council and Chief Crowe have broken the laws of the Federation of Saskatchewan Indian Nations, by attacking the political autonomy of the Band and diminishing the Band's status as a member of the Cree Nation, and have, therefore, declared themselves in opposition to the wishes of the Joseph Bighead Band.

WHEREAS pursuant to Section 11.(g) of the Joseph Bighead Convention Act, of April 13, 1987, the Indian Government of the Band is entrusted with the powers and prerogatives to participate in the activities of the Federation of Saskatchewan Indian Nations, if those activities are "of spiritual, philosophical, political, or any other benefit to the Band",

further, it is clear to the citizens and Indian Government of the Joseph Bighead Band that participation in the activities of the Federation of Saskatchewan Indian Nations is not beneficial to the spiritual, philosophical or political well-being of the Band.

BE IT RESOLVED, THEREFORE

that the Joseph Bighead Band shall withdraw its participation in the Federation of Saskatchewan Indian Nations, effective the date of the passing of this Resolution.

Original Signed by:
Ernest Sundown, Chief
John Sundown, Headman
James Kahpeepatow, Headman

January 10, 1990.

APPENDIX E.

CODE OF ETHICS

The following Code of Ethics provides the basis upon which any individual researcher, consultant, or consulting firm, may become associated with the Joseph Bighead Band. Complete adherence to the following Code is necessary to the establishment of a high quality relationship between the Joseph Bighead Band and individual researchers, consultants or consulting firms.

Throughout the following Code of Ethics, the term 'consultant' shall be applicable to researchers and consulting firms.

CODE

ONE All consultants will be knowledgeable and aware of their status and role within a network of social, political and economic relationships with their clients or sponsors, host communities, informants, other professionals, students and the public.

TWO Consultants will avoid conduct that takes advantage of a real or perceived power imbalance involved in relationships with others, including discrimination or harassment on the basis of race, ethnicity, religion, or sex.

THREE Fellow consultants and co-workers will be respected, given sufficient information and opportunity to collaborate in the development of a project, appropriate credit for their contributions, copies of reports, and proper compensation where due.

FOUR Informed consent will be obtained without coercion or undue inducement, after all of the foreseeable risks in the project have been explained and discussed. It must be clearly understood that both the Joseph Bighead Band and the Consultant are free to withdraw from their association in a specific project, if the risks are unacceptable to either party.

FIVE Outside of information, which is already public knowledge, the Joseph Bighead Band has the freedom and authority to decide on its' rights to privacy, confidentiality and anonymity in communication about their personal attitudes, opinions and behaviors. Consultants will, therefore, adhere to this principle, and extend it to the consultant-client relationship, regarding any information generated from a project the consultant is participating in or is wholly responsible for.

Where the Consultant's ability to guarantee these rights is limited by any factor, he or she must discuss the situation with the Joseph Bighead Band.

SIX Consultants will clarify, before undertaking any project, or research, for the Joseph Bighead Band, the rights to data, including ownership, distribution, publication rights, and rights to interpretation.

SEVEN Consultants associated with the Joseph Bighead Band, shall maintain a level of integrity and rapport that will not jeopardize any future projects.

EIGHT In their relations with the Joseph Bighead Band, consultants must be honest about their own qualifications and aims, before entering into an association with the Joseph Bighead Band.

NINE Consultants associated with the Joseph Bighead Band are obliged to clarify any distortions being drawn from an interpretation of the findings of a task they have been involved in.

TEN Consultants will, as a general practice, involve the Joseph Bighead Band and/or its designates, in the planning and execution of all projects, including the preparation and dissemination of all reports.

ELEVEN All external consultants and researchers have an obligation to fully disclose and make explicit the vested interests of the sponsor or the research activity, and the vested interests of the researcher or consultant, and attempt to determine whether or not these interests conflict with those of the Joseph Bighead Band.

TWELVE The Social Sciences and Humanities Research Council of Canada Guidelines "On the Acquisition and Use of Cultural Properties", will be followed by all consultants associated with the Joseph Bighead Band.

These Guidelines will also apply to all external researchers and agencies or institutions, including, but not necessarily limited to archaeologists, museums and others.

AGREEMENT

BETWEEN the Indian Government of the Joseph Bighead Band and

Robert J. Devrome, consultant and researcher.

WHEREBY Robert J. Devrome agrees that throughout his research and working relationship with the Joseph Bighead Band, he will comply fully with the terms and conditions of the Code of Ethics of the Joseph Bighead Band, regarding consultants and researchers(attached).

SIGNED THIS 15th. DAY OF September, 1989.

Original Signed by Chief Ernest Sundown and Robert J. Devrome.

APPENDIX F.

Summary of field research data collected from Joseph Bighead Band members: May - August, 1989. The identities of the Band members interviewed may be revealed through formal application to the Government of the Joseph Bighead Band.

Number of Band members interviewed 104

Parents	42
Elders	6
Students	56

Questions asked of all Band members interviewed

1. Should the Cree language be taught in the school? Why?

2. Should Cree culture and history be taught in the school? Why?

3. Should Elders be involved in the school? Why?

4. Do you think non-Indian teachers should learn the Cree language and something about Cree culture? Why?

5. Who should determine what is taught in your school - Indian Affairs, Province, Band? Why?

6. Who should have financial and administrative control of the school? Why?

7. Who should make the final decisions about education, and other areas, for the Joseph Bighead Band? Why?

Summary of Responses

1. Should the Cree language be taught in the school?
   Parents (37 yes; 5 no)
   Why? Yes
    1. So they don't lose their language.
    2. The children here all speak Cree now, and they shouldn't lose it.
    3. Both languages should be taught. They are both important.

No
1. The Cree language should be taught at home and English in the school.
2. Cree should not be taught as a subject. It should just be used, the same as English.

Elders (6 yes; 0 no)
Why?
1. If the children lose their language, they will lose their culture.
2. They won't know what it means to be Indian if they lose their language. Cree should be used in the school.

Students (48 yes; 8 no)
Why? Yes
1. Our language is important.
2. Some of us don't understand English very well.
3. All of us speak Cree.

No
1. Cree is alright, but I need English to get a job.
2. Cree should be learned at home, not in the school.

2. Should Cree culture and history be taught in the school?

Parents (39 yes; 3 no)
Why? Yes
1. So they know who they are.
2. So they will be proud to be an Indian.
3. So they will understand Indian history and our traditional beliefs.
4. The school should support the Band and what it believes.

No
1. Students should learn these things at home, or from the Elders. Some things are sacred.

Elders (6 yes; 0 no)
Why?
1. Indian history is just as important as white history and should be made important in the school.
2. The Elders could go to the school to explain Indian values and tell the legends of the Cree.
3. Our culture and history can be taught to the students by taking them into the bush for awhile. the Elders can

be part of this, with the school.

Students (53 yes; 3 no)
Why? Yes

1. So we don't forget our past.
2. So we can be strong as a people.
3. So we can understand our history and how come all our land was taken away, and Indian Affairs always tells us what to do.
4. To understand our Treaties.
5. To understand Indian Government.
6. To understand the Elders.

No

1. Useless. The whites run everything.
2. Schools aren't our way. The grandparents can tell me this.

3. Should Elders be involved in the school?
Parents (39 yes; 3 no)
Why? Yes

1. Indian handicrafts.
2. Indian values.
3. Indian legends.
4. Cree language.
5. Bush survival.
6. Preservation of nature.
7. Traditional dress.
8. Hunting and trapping.
9. Traditional Indian education.
10. To show how language is important to culture.

No

1. Elders should work with the kids outside of the school.
2. Some things are sacred and should not be talked about in a classroom. Wrong place.

Elders (6 yes; 0 no)
Why?

1. By going to the school and talking to the "young one's" about "our beliefs."
2. "We could go to the school to encourage the students ... and to let them know about their history and culture ... to talk about the old ways."
3. We can take the students to the bush.

Students (44 yes; 12 no)

Why? Yes

1. "To show us things about Indians. They know these things."
2. "So they'll know what is happening in the school."
3. "Teach us how to handle things when we get older."
4. "So I could learn more Indian culture" ... "about beadwork and tanning" ... "about how to skin a deer."

No

1. "I will work better if they're not there."

4. Do you think non-Indian teachers should learn the Cree language and something about Cree culture?

Parents (40 yes; 2 no)

Why? Yes

1. Non-Indian teachers can learn the language, but they should remember that culture is not in books.
2. To communicate better with Indian people.
3. To teach Indian culture to the students, but not Indian religion.
4. So Indian people can understand and learn better by using both languages.
5. So they can understand the small children.
6. To understand the Indian way of life.
7. So they'll know how to teach Indian children.
8. They should also be required to know something about teaching English as a second language.
9. Knowing the Indian language will improve their teaching skills.

No

1. They're not Indian. They should just do their job.

Elders (5 yes; 1 no)

Why? Yes

1. So the little one's don't forget their own language.
2. Most Elders want the children to learn the English language, but they never want them to forget their own language. The teachers can help.
3. To be able to understand the children and their way of living.
4. It will help the teachers understand that book learning is not enough to deal with the everyday problems of living on the Reserve.

No
1. No explaination.

Students (49 yes; 7 no)
Why? Yes
1. So they can be a little like us. The students are all Indian.
2. So they can understand the Band people.
3. So they can understand Cree people better, Indian culture better and what we are saying.
4. So we don't have to speak English all the time.
5. I could talk to them more easily in my language. We don't understand English.
6. So I don't have to learn the white man's language.
7. Will improve communications and interpersonal relations by understanding what we are saying.
8. Should know something about us before teaching here.
9. To get away from teacher's stereotyping us.
10. So they won't think we're talking about them.

No
1. Cree is for Indians only.
2. Useless, teachers should only do their duty.
3. Cree language is sacred.
4. They might know what we are saying.
5. Because they will try to take our language away from us.

5. Who should determine what is taught in your school (Indian Affairs, Province, Band)?

Parents

37 parents thought the Band Government and the Band Board of Education should be in control. The major reasons given were:

1. The Band Government understands the Reserve.
2. The Band Government and the Board of Education are the key to the future.

Five parents felt that the Provincial Government should be involved somehow, but that the Band Government and Board of Education must maintain control.

Elders

Five Elders believe the curriculum in the school should be set by the Band Government and the Band Board of Education.

One favored the Provincial Government and one stated that the Band and the Provincial Government should work together.

Students

44 students want the Band Government and Board of Education to control the curriculum. The principle reason given was that they understood the Band better than anyone else.

Seven thought that the Band and Provincial Government should work together. Three stated that Indian Affairs should be in control and two thought the Provincial Government should determine the curriculum.

6. Who should have financial and administrative control of the school (Indian Affairs, Band)?

Parents

Two parents thought that Indian Affairs should retain control, while 40 parents stated that the Band Government and the Board of Education should have total control over the financial and administrative affairs of the school. The reasons given include:

1. The Band Government is elected to represent the wishes of the Band members, and should be accountable to the Band members only, not to the Department of Indian Affairs.
2. The money forwarded for education is part of Canada's Treaty obligation and the Band will decide how to administer and manage those funds.
3. The Band has its own Education Act and Financial Administration Act. The view of the parents is that these acts are based on their inherent right to govern themselves.
4. The Band Government and the Board of Education know what we need, and we have our laws that say how we will run things. No outsider can do these things for us.

Elders

One Elder stated that the Department of Indian Affairs should be in control, while five Elders supported Band authority over the financing and administration of education. The reasons given were similar to those of the parents. Emphasis, however, was placed on the sovereignty of the Joseph Bighead Band, as an inherent right, and the status of Treaty #6 as a guarantee of Canada's obligations to the Cree Nation.

Students

Five students thought the Department of Indian Affairs should control the finance and administration of education. 51 stated that the Band Government and the Board of Education, in communication with their parents, should have control. The reasons given were that the Band Government was elected by the people to do what the people wanted, and that the Band Government and the Board of Education knew what the educational needs were and not anyone from outside of the Band.

7. Who should make the final decisions about education, and other areas, for the Joseph Bighead Band? Why?

The responses of the students to this question were similar to those given for question number six, and will not be repeated here. The responses of the parents and Elders paralleled those of question six, with some exceptions.

Parents and Elders

Additional emphasis was placed on the rights of the Band to make its own laws: convention, elections, education, finance, personnel, citizenship, land use, fisheries, game laws, traffic, forestry, civil and criminal law. And that they supported the efforts of the Band Government to have the Band's laws recognized as being equal to those of Canada and Saskatchewan.